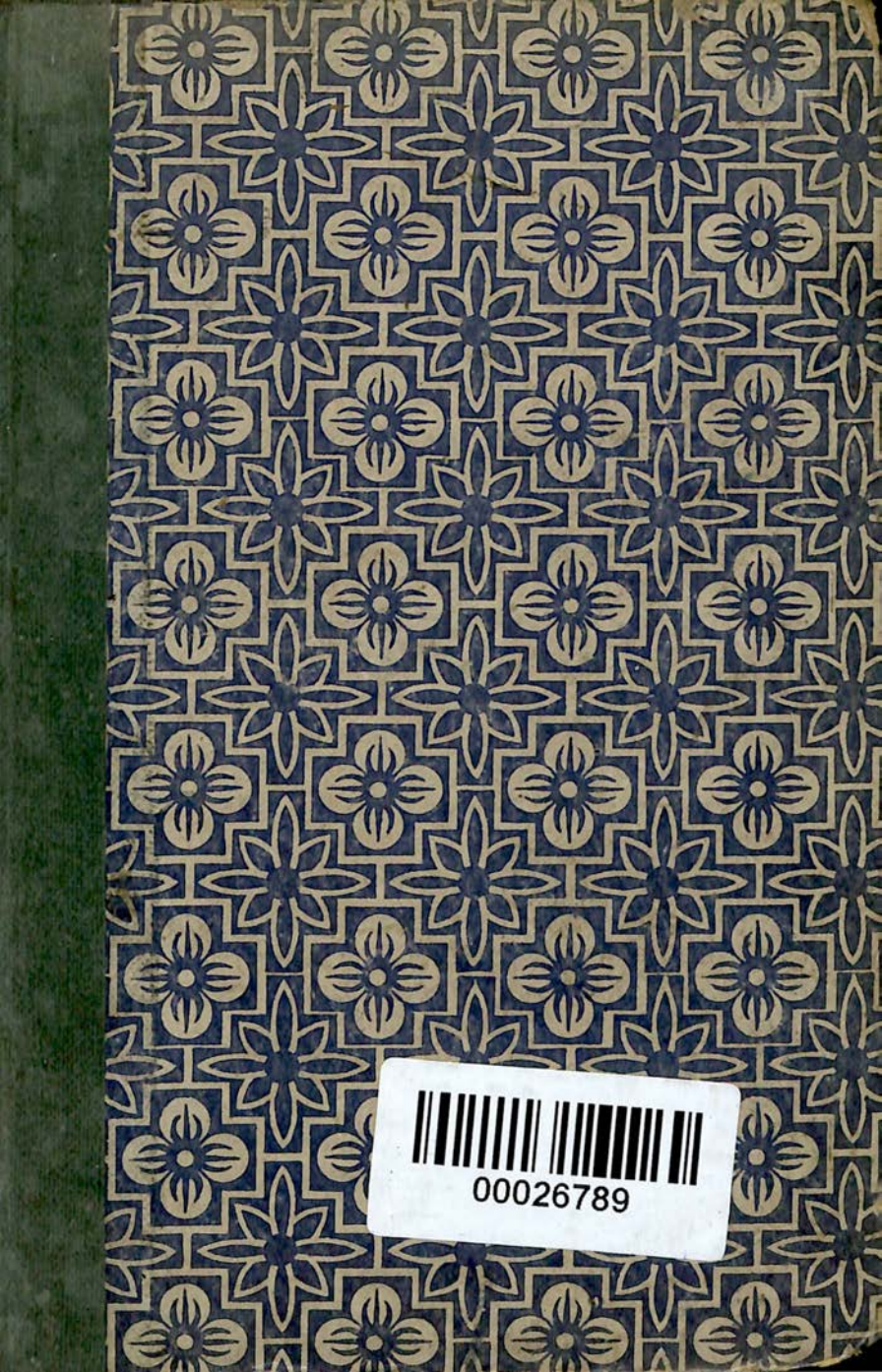
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THE

ELECTION OF REPRESENTATIVES,

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PARLIAMENTARY AND MUNICIPAL.

A Treatise.

BY

THOMAS HARE, Esq.,

BARRISTER-AT-LAW.

THIRD EDITION,

WITH A PREFACE, APPENDIX, AND OTHER ADDITIONS.

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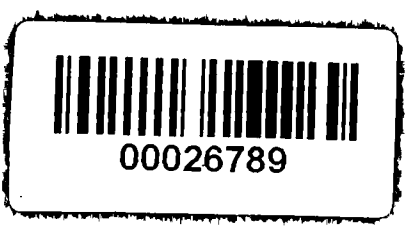
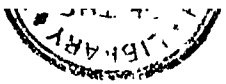


TO

THE RIGHT HONOURABLE

SIR JAMES WIGRAM,

FROM WHOM THE AUTHOR HAD DURING MANY YEARS
THE ADVANTAGE OF HEARING THE MAXIMS OF THAT EQUITY
WHICH IS INSEPARABLY CONNECTED WITH MORALS,
AND TO WHOSE FRIENDSHIP AND KINDNESS
HE IS LARGELY INDEBTED.



PREFACE TO THE THIRD EDITION.

THE criticism of seven years on this method of relieving electors from the artificial restraints which impede the freedom of action in representative institutions may be summed up in a few words,—that it is too complicated to be practical, —that it is hostile to our local system,—and that it would admit of abuse from party organization. If the first objection were true it would be insurmountable: the second would be an obstacle to the adoption of the method. If the last had any foundation, in its exposure to party influence it would still deserve a comparison with our present system. Apart from these supposed objections,—a system which would bring home to every elector the feeling of actual and personal responsibility,—convert what are now only majorities into unanimous constituencies, and mischievous and demoralizing contests into efforts of honourable emulation,—in which all moral and intellectual elements would have their direct expression and just force, and the corruption that remained would be confined within such natural and inevitable limits as to take from it nearly all its political and most of its personal evil,—has met with very general approbation.

First, as to the alleged complexity. The system, while it gives to every elector the most ample choice of candidates, makes a vote effectual in the election of one only. It is therefore necessary to provide for the probability that men of great popularity and eminence will have a large number of

votes, many of which would be thrown away, if means were not given to the electors of transferring them to another candidate, in case the first they have named be elected without their aid. Accordingly, the form of the voting-paper,[1] without making it compulsory on the voter to name more than one candidate, yet permits him to insert a second name under the first, a third under the second, and so on,—at his discretion, and according to the measure of his sympathy, his desire to show a concurrence of opinion, or to manifest his respect or appreciation. Those who come to the examination of this scheme for the first time will probably be amazed to learn, that—so far as there is anything to be done by the voter—this is the whole extent of the complexity from which so many politicians have shrunk.

Many of the epithets used in describing this proposal would appear intended less to invite attention than to turn away inquiry. Legal phraseology has been borrowed to cloud with its abstractions the simple act of writing the name of one candidate under another,—that the vote may be transferred to the second, if the candidate named first should have votes enough without it. It has been called a "contingent remainder," and an "estate tail" in a vote! It may be left to the electors of the kingdom to judge between those who seek for them this vast augmentation of their electoral power, and those who tell them that a vote for a second person to be used on the contingency of the first not requiring it, is beyond their understanding. I would remark, however, that if any voter can be found to whom it is not intelligible,—the use of the contingent vote by others will do him no harm. Every power which he has under the present system is scrupulously reserved to him, except that (which may indeed have its value in the eyes of those who are skilful in wielding ignorance) of drowning the voices of other people.

A vote is to be given to the candidate placed second on

[1] Page 124.

the paper, if the first has enough votes without it,—but how many are enough?—and how is that to be known? The simple course is to ascertain how many persons vote, and to try how many votes each member to be elected would have if the votes were equally divided. On the morning which follows the election day, the entire number of votes would be known. If 658,000 people had voted, and there were 658 members, 1000 would be enough (or be the quotient or quota) for each member; and if any candidate had more than 1000, the excess beyond that number would be transferred to the successive candidates named on the voting-papers. I suppose that no inspector of a national school would allow a child of ten years old to be reckoned as entitling it to head-money out of the public grant who is not able to divide the number of the voters by 658, and thus obtain the quota. But even this achievement in arithmetic is not required from any elector. It is an operation to be performed by registrars, to whom the numbers are reported.

It is then necessary to determine which of the voting-papers shall be taken to make up the member's quota, and which shall go to the next candidates. It is of little importance to the voters, but may be of much consequence to the candidates placed lower on the papers. The papers might be drawn by lot, but I have preferred a series of simple rules, in which the appropriation is made to depend on locality, and on the number of alternatives the voting-paper displays. These rules are to be applied by the registrars, and any voter to whom they might appear perplexing need not trouble himself with them. It is only necessary to satisfy him that the rule is impartial and just. The voter has nothing to do necessarily but to look to his own voting-paper. It will be deposited in his town. He may at any time refer to it, and see by the endorsement to which of his favourite candidates it has been appropriated. This will be proved by his name being found among the constituency of

that candidate; and the fidelity of the disposition will be tested by tables showing that the votes severally appropriated make up the total polled. The telegraph and the railway are not of less public utility because few who use them are masters of the science of mechanics and the laws of electricity.

The alleged impracticability of the method has recently met with an unexpected and conclusive refutation. Mr. Lytton, Secretary of Legation at Copenhagen, judging that there was no subject of internal polity, which the inquiries of our ministers abroad could elucidate, so fraught with consequences deeply affecting the public prosperity, and none, moreover, in which the institutions of free states had gathered such small improvement in the progress of civilization—in July, 1863, laid before the government at home a paper on the mode of electing the Rigsraad, or Supreme Legislative Council of what was then the United Kingdom of Denmark and the Duchies.[1] 'This method, which was first adopted in 1855, at the instance of Mr. Andræ, Minister of Finance, Mr. Lytton discovered to be almost identical with that which, after several more imperfect embodiments of the same leading idea, has been propounded in this Treatise. He regarded the existence and operation, for eight years, of an electoral system, which had theretofore been considered in England as a theory only, to be a very remarkable event in the history of representative institutions. "If," Mr. Lytton says, "the question, 'Will it work?' can be eliminated, the more important question, 'What will be the result of its working?' will be entitled to increased attention." With a rare appreciation of the essential elements of the scheme, and of their bearing under different political conditions, Mr. Lytton explains the extent to which it was capable of application in the election of the Rigsraad. Of the eighty members which composed

[1] *Reports of Her Majesty's Secretaries of Embassy and Legation on the Manufactures, Commerce, &c., of the Countries in which they reside.* No. 7. Presented to both Houses by Command. 1864.

that body twenty were nominated by the Crown for twelve years, and the remaining sixty were elected for eight years; thirty being chosen indirectly by the provincial assemblies, and thirty directly by the people. The system of quotas was adopted in both, the popular vote extending to the thirty elected directly. This limited application of the method, moreover, was for the election of an assembly whose ordinary sittings were only two months in every second year, and the membership of which conferred no great accession of dignity or influence, and opened but a very small, if any, field for political rivalry or effort. A seat in it had so little to invite activity or tempt ambition, that Mr. Andræ found it necessary to provide in his law for the case of a candidate who, after having been duly elected, should decline the seat. Even a simple declaration of candidature, it was said, would be distasteful; and it is the practice for those who desire the election of a particular person, to ascertain privately beforehand that he will not disappoint the electors. This condition of the national mind, and the antipathies of race in the Duchies, which were all the time on the point of breaking out into open war, together with the restricted measure in which the popular voice would be thus collected, caused the experiment to be made under circumstances as unfavourable as can well be conceived. A part of the kingdom repudiated the constitution, not owing to any opinion as to the mode of election, but from hatred of the union; and this reduced the directly elected representatives to twenty-two. A scheme, therefore, devised to abate the fierceness of electoral conflicts among people of great political activity, to moderate the bitterness of struggles by which parties labour for the extinction of each other, and to regulate and hold within reasonable bounds the force of passions that, pursuing with intense desire objects of personal and party ambition, too often threaten to sweep away in their resistless torrent the virtues, the moralities, and even the decencies of life, came thus, in

a partial degree, into use amongst a people in whom the common current of political feeling and effort is so sluggish, that an artificial stimulus must be employed to overcome its inert character. Yet, notwithstanding these hindrances, election by this method is effected without difficulty; it has facilitated the introduction to the national legislature of men of the highest character and intelligence, and is working out a corresponding improvement in the constituent bodies.

Secondly,—of the effect of the method on local elections. The system which really destroys the wholesome influences of locality is that which has long been, and still seems to be, most in favour with popular reformers,—grouping some boroughs, disfranchising others, here severing cities and counties, and there adding a score of villages to some small borough. The component parts are rather repelled than attracted by such undesired combinations. It is proposed to amend this anomalous patchwork, and allow the country spontaneously and without any arbitrary rule, to recover its natural subdivisions,—to recognize no right to any monopoly of electoral privilege, and in the place of disfranchisement to enfranchise not less than four hundred towns which are now shut out from any local action; and the proposed amendment is alleged to be destructive of the local character of our electoral system! To give the widest scope and inducement for local combination is to delocalize!

The apprehension of a disregard to localities is probably owing to the fact that the first step in the method is to add together all the votes given in the kingdom in order to compute the quota. Thence it is imagined that the whole kingdom is in some manner made one electorate, whereas, in truth, the computation is nothing more than a momentary operation to arrive at a common measure of the constituencies without any purpose of blending them together.

A doubt has, indeed, been expressed by one who has given much attention to the plan,—whether it is consistent with

the maintenance of local distinctions, or with the identification of particular representatives with particular groups of voters. In the present edition, the eighth chapter, which treats of the duties of the returning officers, has been considerably expanded,[1] in order that it may be better seen that none of the legal subdivisions of the constituency are effaced, nor any of the visible landmarks of the electoral field swept away; and that, on the contrary, as the surge of our national life rolls deeper and wider, such legal subdivisions will be multiplied, and many new landmarks added to the old. It will be seen that the identification of particular representatives with particular groups of voters is promoted and secured to an extent and with a completeness hitherto unknown.

A London merchant, on the register in Devonshire, may vote for a candidate for the City, and a Scotch merchant in London may vote for a candidate for Glasgow,—how is that consistent with the integrity of localities? It is true that any elector, however humble in rank, or feeble in influence, may pass by the candidates for his own constituency, and propose, instead of them, any other candidate he might prefer, but this is nothing more than his ancient common-law right. Every elector may now propose and vote for whom he pleases. This method enables him, however, to do much more,—and it is to this additional power that some of our politicians object, and against which they raise the cry that "localities are in danger." It enables the elector to put his vote in writing, and makes it possible that the vote, although without effect in his own constituency, may help the return in some other place of the candidate for whom it is given. Yet it does this without any control over or interference with the voters of such other constituency. There may not be enough voters in it to make up the quota, or not enough given for that candidate, and the distant vote may therefore serve to complete it,—not impeding but assisting everywhere the majority,

[1] Pages 164–174.

—the greatest number that can agree together,—in the work of electing their local member. Without such a power, it would be commonly useless, and even absurd, for an ordinary elector to propose a new candidate against the nominee of the clique or caucus of the borough; but this power, which vindicates his individual right, most of our politicians shrink from giving him. It would, they fear, make the voter too free. He is not to be trusted without the bridle and the bit. Extend the suffrage,—make the constituency more numerous,—but do not trust them out of harness. "All our schemes of election management may be defeated, if every voter had such extensive means of comparison and choice, and if no small cabal could affect the general result."

With the integral political rights of counties, cities, boroughs, and corporate bodies, the constitution of this kingdom, and the public life and habits of its people, are inseparably interwoven. This method of election contains very much which would promote the development of such centres of action, and impart to them a purer and nobler spirit,—nothing that would weaken their force. Can it be supposed that the moment the electors are allowed a freedom of choice they will all immediately be seized with a desire to vote for some distant candidates with whom they are unacquainted, rather than for those whom they know,—who are near to them, whose addresses they have heard, and who have personal recommendations to the favour and respect of the town and neighbourhood? Local and corporate associations are highly and justly prized. From them the state derives benefits analogous to those which the close fellowship and community of the domestic and family relation afford to the individual. These natural ties are not so fragile that they disappear as soon as they cease to be forcibly kept alive by positive law. It argues but a small belief in the regard of our people for local action to suppose that they must be imprisoned within their constituency to be kept true to it.

If we consider the mental effect on the observers, of nearly every kind of competition the result of which is doubtful, we shall find there is every reason to conclude that local interest, activity, and effort will be stimulated by an election in this form to a greater degree than heretofore, and will be of a far more wholesome character. Many more candidates will be everywhere put in nomination. The measure of local regard for each candidate the votes will display,—the anticipated evolution of varieties of preference,—the desire of the more public-spirited inhabitants that the choice of the majority may light on the best, or on him they think so,—will "present the situation of suspense and pleasurable engrossment"[1] in great force. This aspect of the subject has been treated in another place,[2] and, interesting as it is, I forbear to dwell upon it.

The third objection,—that a party "ticket" would be used, and party organization become omnipotent,—is scarcely more than an offset of the last,—that the method delocalizes. If, indeed, it created one electorate,—if every member were chosen for the whole kingdom, and by no county or town in particular,—each party might safely produce a printed ticket for its own followers, and be certain that, to the extent to which they adhered to that ticket, the candidates named upon it, one after the other, would make up their quotas or majorities, until the whole strength of the party is exhausted, and it can elect no more. Supposing, also, party devotion to be thus blind and indiscriminate,—that every voter chose to be either a Tory, a Whig, or a Radical, they might vote either for the T., W., or the R. ticket in blank, and leave it to the leaders of their parties to fill up the names according to the number of quotas which each could muster. Yet see how alien all this management is to our habitual action,—how irreconcileable with our forms of political life! Our pro-

[1] *Bain, The Emotions and the Will.*

[2] Representation of every Locality and Intelligence. *Fraser's Magazine*, April, 1860, p. 536.

vinces are not the merely passive and stolid reflex of the opinions of the capital. The people of Liverpool or of Manchester would not set aside their eminent merchants or manufacturers for the nominees of a London club; nor would the inhabitants of Devon, or Warwick, or Edinburgh, or Glasgow, submit to such dictation. No county or borough would consent to use such tickets if they had not been consulted in the selection of any of the names. Even if the kingdom were a single electorate (voting by quotas) no party would dare to ignore,—on the contrary, each party would invite the co-operation of local eminence and the power which it carries with it.

A single electorate, voting by this method, and using party tickets, would still have no resemblance whatever to the "American ticket." That "ticket" is got up to enable the numerical majority to hold together in one unbroken, compact mass, and crush the minority. It is politically a life-and-death struggle:—it admits of no balancing, no wavering,—no hesitating or half support. The stronger party will emerge in safety,—the weaker will perish.

A single electorate and the use of tickets by party supporters, voting in quotas, by the contingent method, would, alone, be a vast improvement. The strength of each party would be measured by the popularity of its principles,—each party would place its best men foremost in a gradation of supposed merit,—and each would select and nominate its very best to attract the support of the independent electors, while the latter would have before them a choice of the superior men of every party.

The proposed method, however, is not that of a single electorate. The representatives of the United Kingdom would be chosen by seven or eight hundred distinct constituencies, acting separately and apart, and it would become the endeavour of the most intelligent persons of every constituency to prevent it from being stultified by giving the major part of its votes to a candidate who would throw discredit

upon it. The voting paper in every constituency would be different, and *no uniform ticket could be safely used.* Every candidate will require his name to be placed first, or first after some one certain of being elected,—or it will probably be of no use to him. The intercalation of any candidate who fails would prevent the vote from being used for any lower name, and may deprive it of any influence on the election. Parties may, indeed, adopt the use of printed voting papers, leaving blanks at the head, or near it, for the local candidates, and inserting below the names of other principal candidates of their side. The extent of the use of these papers, or "tickets," would measure the popular sympathy with the party whose opinions it expressed, and would give them the moral weight of such adherence. It is a mode of gathering a knowledge of popular opinion and sentiment which is every way desirable; and it would have no other than a salutary effect on the particular election.

In an earlier stage of the method it was proposed to reduce the number of candidates, and arrive at an equal quota for those who were elected, by giving a proportionate value to every contingent vote, and computing the total of such values as the measure of support each candidate had received. This was open to the objection that it gave inordinate weight to numbers acting by means of party papers or tickets, and the suggestion was for that reason withdrawn.[1] The plan proposed for the city of Frankfort[2] is liable to the same objection.

The principle always kept in view has been that in forming the representative assembly of the nation, full play should be given to the expression of all opinions and sentiments, that they may be admitted to the test and scrutiny of discussion. The electors are the dispersed inhabitants of an extensive and

[1] Pages 187, 188. See also Appendix C. This is the difficulty alluded to by Mr. Mill in his *Considerations on Representative Government*, p. 158 2nd ed. It has been obviated by excluding a contingent vote from any effect *on the election*, until it is taken to make up a quota or comparative majority.

[2] Appendix B., p. 299.

populous kingdom, possessing knowledge and powers of thought infinitely varied and diffused; and to expect that the electoral forms of a rude and illiterate age will gather for the national benefit the fruit of this expanded intelligence, is as reasonable as to suppose that the vast manufacturing results of this day could be produced by the primitive loom and the hammer. To succeed in this work it is indispensable that every elector should have the widest field of choice, and the most extensive sphere for co-operation. It is by comparison that the standard of excellence is raised. "As we eliminate comparison we fall into dead acquiescence." It is by the co-operation of kindred and sympathetic minds that great ends are accomplished. In the kingdom there is a range wide enough for that accord which can be rarely obtained in any single constituency. "The essence of liberty is the simultaneous manifestation and action of all rights, all interests, all social elements and forces." We follow the true guiding of experience when we found our conclusions of the probable actions of men from the motives by which they are commonly guided: it is thus that the science of political economy has been evolved; and in the improvement of representative institutions we must pursue the same method.

As electoral action is freed, most of the evils which now accompany it will disappear. A seat in Parliament, as an avenue to social estimation, as well as to political power and rank, will still be an object of intense ambition; and the rich candidate will as surely use his money to bribe, as the crafty and fluent candidate will use his tongue to delude. Penal laws cannot reach the latter, and only aggravate the demoralization occasioned by the former. But in casting off the legal shackles, this moral disorder is dealt with as physical maladies are encountered. Its virulence is abated,—as many of its causes as are capable of removal are got rid of; and, above all, the contagion is prevented from spreading to those who are in health.[1] Personal representation equalizes the pecuni-

[1] See pp. 106-109, n.

ary value of every vote, and reduces it to its minimum. Three fourths of the temptation is thus swept away, and, what is even far better, no man can sell more than his own vote: he cannot at the same time, by turning the scale, sell his town, or affect the representation of the rest of his constituency. Nor would any candidate thenceforward be driven to call evil good, and praise conduct as virtuous and patriotic which he knows to have been selfish and corrupt.

Personal representation encourages every man to do the best that is in him, and leaves him without excuse if he does not; and it therefore in the highest degree tends to promote individual effort. "The general public opinion is formed and modified by what the mind of each individual contributes towards it: it represents the sum or balance of the abstract moral principles of the persons forming the community. The state can only hear advice, or yield to suasion, or imbibe the spirit of genuine improvement through the medium of the individuals of whom it is composed."[1] It was a remark of De Tocqueville that the rulers of our time sought only how to use men in order to effect great things. "I wish," he said, "they would try a little more to make great men,—that they would set less value upon the work, and more upon the workman." Every detail of this scheme converges to one central point,—that of making the exercise of the suffrage a step in the elevation of the individual character, whether it be found in a majority or a minority. I disclaim for it, therefore, the title of a representation of minorities. M. Morin, to whose labours in Geneva I refer elsewhere,[2] has better comprehended its object, and I presume to quote his description of it. "Il est vrai que M. Hare poursuit un but plus élevé que la représentation des minorités et que si celle-ci est obtenue, dans son système, ce n'est qu'indirectement. En conséquence, ce qui paraît une défectuosité, considéré au point de vue des minorités, peut n'en être pas une, lorsqu'on se place à celui de l'auteur. M. Hare se propose avant tout

[1] Gladstone. [2] Appendix A. p. 295; and see p. 255, n.

d'affranchir l'électeur du joug des partis et de le relever à ses propres yeux. Pour cela, il le place en face de lui-même pendant l'acte important qu'il est appelé à accomplir et le rend partiellement responsable de la composition de la législature. Ce n'est donc pas sans motifs plausibles que M. Hare se présente comme fauteur de la représentation personnelle, plutôt que de celle des minorités. La lecture de son traité conduit facilement à la persuasion que le pays qui façonnerait son organisation électorale, d'après de telles idées, s'assurerait les bienfaits d'un corps législatif, composé d'hommes capables et estimés, en même temps qu'il élèverait le niveau moral de la population."[1]

The political education afforded to our people by the occasional opportunity of concurring in or opposing the election of one or two representatives, has been compared with that conferred by the town autonomy of the Greek cities—as of Athens, where the Demos met at short intervals, and exercised the office both of parliament and government, and questions of foreign policy and domestic administration were constantly argued.[2] Certainly, with our present system the comparison is humiliating enough; but if the constitution would open to every voter a scope for thought and reflection as wide as his intellectual and moral horizon,—if it gave him a choice from among all who by their candidature show that they aspire to public distinction,—the political school of the "every-day Englishman" would surpass in value that of the citizen of Athens in its proudest time. The long procession of history, and the phenomena of a progressive civilization,—the accumulated records of human action,—the influence of Christianity,—the opening portals of natural science, afford endless themes for instruction, bearing on the policy and complicate arrangements of social life in modern times, of which the Greek orators or statesmen could not dream. The subjection of a theorem, moreover, to the calm

[1] Page 17. [2] *Freeman's History of Federal Government*, p. 40.

deliberation of the closet is a more instructive process than its reception from lips however eloquent.[1]

After all, the end is "good government,"—but that includes the moral and intellectual development of the men and women to be governed. Institutions are good which call them habitually to perform such public functions as tend to awaken a true conception of their real interests and duties in respect to their households, their neighbourhood, the state, and the brotherhood of nations; and lead them to realize their endowments of conscience and intellect, the gifts by which God has fixed their high place in the order of creation, and in the great inheritance of humanity. But a government is not good which, as to numbers of its people, contemplates no more than protection from an external violence,—which allows them no voice in the choice of their legislators, or in framing the laws by which they are to be ruled, and which disdains any appeal to them in its consultations on the public welfare. Such a government differs from natural society only inasmuch as the individual is guarded by the civil power instead of his own strong arm. It fails to cultivate the higher qualities of his nature, to foster a love of country, a regard for public duty, or even a just self-respect. What it bestows is but the attention of the kind master to his horse or his dog. It misses even the poor end at which it aims. The classes usurping all power cannot confer even the physical and material comfort of which they boast. Where the right is absent, the corresponding duty or responsibility will not be felt. The classes treated as inferior beings, will discard the higher obligations of civil life and throw upon those who have assumed the charge of their destinies, the blame, if not the consequences, of their moral weakness and degradation,—thence our load of pauperism, our catalogue of crime. The wise parent admits his children to his counsels, and makes them partners of his labours and his hopes, not from caprice or by fits and starts,

[1] See pp. 253, 254.

but gradually and impartially, as education bears its fruit, and intellect is matured. The nation is but a greater family.

If the choice be wide and free, the examination of the list of candidates, by an intelligent elector, with the practical object of placing on his voting paper the names of the most worthy of a seat in Parliament, would be an intellectual exercise of no mean value, bringing home to him important truths and noble aims. The thoughts it is calculated to awaken in his mind, and the discussion among his family and friends to which it is likely to give rise, would be sources of more than transitory benefit. He may give effectual support to the local candidate, and at the same time render a moral tribute to others. Few exercises would be more instructive than that of gathering information and forming an estimate of the character of candidate after candidate,—weighing their labours,—their public claims from achieved service, or the hopes inspired by youthful promise,—with the looked for pleasure of being able to offer an unsolicited testimony to merit and an unexpected homage to worth. This is no visionary expectation. Experience teaches us that it is an ordinary impulse, when the mind is not distorted by prejudice. "The judgment and criticism we pass freely upon our fellow-creatures, and their ways and performances, are a common gratification, partaking of the freedom of thought itself. Whatever good qualities strike our minds, or impress the community we live in, are sure to be sought after with especial ardour, whilst those that are in bad odour are kept in subjection. The contemplation of superior greatness is a fund of delight."[1] Aspiration is generally higher than knowledge, and multitudes of less education and narrower intelligence will gladly associate their votes with those of the more eminent and distinguished of their age.

It would probably become habitual with intelligent voters, to preserve a copy of the voting paper, making in it, from

[1] *Bain, The Emotions and the Will.*

time to time, such alterations as the withdrawal of old and the introduction of new candidates, the progress of opinion and of events, might occasion. It will thus be a political register, and the act of framing it anew at each election will be an instructive lesson. The admission or rejection of every name may involve a conclusion on the domestic, social, or international questions of which he may be the type or exponent. The precipitancy with which the mind approves or rejects the claims which are put before it, and the caution it uses in sifting, weighing, and examining them, is the touchstone of the order of intelligence. "Where the consciousness is not awake except under a very broad difference, we consider the mental constitution the opposite of intellectual. In whatever department of impressions the nicest sensibility to difference prevails, in that department will reside, in all probability, the intellectual aptitude of the individual."[1] The mere act of voting may thus be made the basis of a study widely diffusing a knowledge of the principles of social polity. "If the human mind grow dwarfish and enfeebled, it is ordinarily because it is left to deal with commonplace facts, and never summoned to the effort of taking the span and altitude of broad and lofty disclosures. The understanding will gradually bring itself down to the dimensions of the matters with which alone it is familiarized, till having long been accustomed to contract its powers, it shall lose wellnigh the ability to expand. The laws of the body are those of the mind. Exercise and excitement strengthen and energize—indolence and habits of insensitiveness, contract, debilitate, and at length kill."[2]

Everything which in political life liberates and increases the scope and influence of enlightened judgment and cultivated reason, is of inestimable service also to those who occupy the higher places in social rank, and possess in the greatest measure the advantages of education and leisure.

[1] Id. [2] Id.

It is to the state "that sovereign intellect naturally betakes, and here that it unfolds itself: not only does it give scope and space to the highest energies of the human understanding, it is also directly the parent, and the object, of some of the noblest feelings which belong to our nature, and, these too, such as operate on the most comprehensive scale."[1] It was long ago said that "the main thing which social changes can do for the improvement of the higher classes is gradually to put an end to all unearned distinction, that the only road open to honour and ascendancy be that of personal qualities."[2] Rank and wealth set out with the most favourable auspices, and stand on the vantage-ground of competition. They will more certainly retain their position in the race, as they themselves eschew, and endeavour to purge political life of all that is vile and base; put forward their highest order of minds for public duties and public honours, and do their utmost to prevent seats in Parliament, or great offices or functions, from being made the appanage of triflers or weak men. It is not wise to stand contentedly by, as some would seem to advise, and wait the behest of public opinion to be communicated by the newspapers. Such apathy is perilous. It is true, as Lord Grey has said, that "to be in constant conflict with evil in some shape or other is obviously the condition appointed by Providence for men and nations, and the moment that struggles for improvement cease, corruption and decay commence."[3] Society, notwithstanding the wider diffusion of material prosperity, has yet a vast accumulation of political, moral, and physical evils to vanquish and sweep away. "Civilization is yet very young; the world is very far from having measured the extent of the career which is before it." The great embodiment of the national life, the State itself, should be, in its popular action, like the awful seat of justice, as far as possible free from

[1] Gladstone. [2] Mill.

[3] *Parliamentary Government*, &c., by Earl Grey, p. 113, n.

every corrupting taint, and every degrading element, that it may attract to its service and duties the most enlightened and the purest minds. Instead of excluding large classes from the franchise, they should rather be invited to its exercise; but the invitation should be accompanied with the inseparable condition that every elector shall, in the act of voting, show both his capacity and his worth, and be enabled gradually to rise to the importance and dignity of the function with which he is intrusted.

I have collected in an Appendix to this edition, extracts showing the efforts that have been made to introduce this system in different parts of the world, and the large degree of support they have met with, notwithstanding its novelty. The progress of the idea among the more profound writers on political subjects is not less remarkable. If it has yet been adopted only in one northern kingdom,—if in the other free states of Europe, and the great Anglo-Saxon communities of the Southern Seas and the New World it has been hitherto a subject of barren discusssion, it must be remembered that the powers of statesmen are limited; whilst effort for improvement is still the duty of all who possess any portion of political power. "A great ruler cannot shape the world after his own pattern. He is condemned to work in the direction of existing and spontaneous tendencies, and has only the discretion of singling out the most beneficial of these. Yet though a pilot cannot steer in opposition to wind and tide, the difference is great between a skilful pilot and none at all. Improvements of the very first order, and for which society is completely prepared, which lie in the natural course and tendency of human events, and are the next stage through which mankind will pass, may be retarded indefinitely for want of a great man, to throw the weight of his individual will and faculties into the trembling scale."

February, 1865.

INTRODUCTION TO THE FIRST EDITION.

THE subject of political representation now assumes an aspect entirely different from that which it presented in the discussions that preceded the Act of 1832. The question was then between a partial representation, the inequalities of which were in their general effects balanced by many compensating influences, and a scheme which, dispensing with most of such influences, made the representation more direct and real, and established it on a wider basis. That Act, which was the offspring of a political compromise, extended the application of the representative principle, without excluding, and not intending to exclude, many imperfections and irregularities. The anomalies which remained were chiefly owing to the attempt to give effect to two principles which the arrangements of our electoral system made it impossible to reconcile,—the representation of interests and the representation of persons. Some constituencies were retained, framed or modified, upon the supposition that they would, in all circumstances, support what were conceived to be special interests. The idea of the constituency as the constituted exponent of an interest having been once received, excluded the idea of personal representation within that constituency, and therefore led to the consequence,—that if persons not governed by the prevailing interest found their way within the prescribed limits, it was necessary, in pursuit of the representation of interest, to exclude such intruders, as

far as it could be done, from the electoral power. As the law, however, did not, and could not, adopt, as an electoral qualification, a test of fidelity to the special interest contemplated, it is not found possible to exclude from the constituency some who are guided by other motives, and form an antagonistic class. The electoral bodies which are regarded as the exponents of special interests are thus exposed to internal conflicts, which render their action more or less uncertain.

In the mobile and susceptible condition of population and society at this day, it is impossible not to observe the purely speculative character of all conclusions founded upon what the permanent interests of the inhabitants of a particular district may be,—upon what they will themselves consider them to be, or upon what their majority may resolve. In a revision of our electoral system, all those who would found the Parliamentary strength of interests or classes upon the basis of constituencies formed for their support, should consider with what degree of safety they can rely upon a body of electors within any certain area remaining permanently faithful to the principles by which they may be at present guided. So long as any definite or indefinite number of persons shall be attached to those principles by the force of mental association or material interest, their support may be reckoned upon; but if it be a further condition of rendering this support, that such persons shall be so numerous within any geographical limit as to preponderate and overpower all opposing forces within it,—the security to be derived from their attachment is certainly not strengthened. The sources of permanent support are weakened by the introduction of a condition which does not increase sympathy,—which may be impracticable,—and which is of no value unless it can be used as a means of disregarding or setting at defiance the opinions of a minority. The territorial condition must be one of two things,—a source of strife if it succeeds,—or a cause of weakness if it fails. It

is deserving of the most profound consideration of all who desire to perpetuate any definite political principle, whether it is possible to insure it for a geographical ascendancy; and whether there are any means of promoting its maintenance so certain and lasting as would be found in a consistent adoption of the sole and simple principle of personal representation.

In framing the constitution, there has been little of that kind of aid which physical science derives from experiment. Government is necessarily established before the question of circumscribing its powers can arise,—and powers once possessed are not often willingly given up. Every step by which a class has been admitted to a new participation in power has been either a concession or a conquest; and the moment of gaining it has been a time of action, and not of speculation. It may have been so far experimental as to have arisen from the sense of some prominent defect in the existing institutions calling for amendment. "Many minds, long ages, and various events have contributed to the advance" of our representative institutions. The successive labourers worked under the unconscious influence of the idea of representation, —though "only seeking to remedy the injustice of some particular case, or prevent the recurrence of some particular evil." But, "when the idea of any institution becomes distinctly apprehended, we may proceed with a firmer step and more assured success towards its full development. We have the guidance of a principle; we have the clue to what had appeared a tangled maze. Our notions may be termed theoretical, but the theory is a condensation of all the practicality of the past."[1] The full display of the principle of representation "is as much the function of the future, as the origination and progress of the principle has been the achievement of the past. We have here our test of the venerable and the obsolete; of the use and the abuse; of

[1] *Westminster Review*, vol. i., p. 10, N.S.

what is to be abolished, and what retained. We have a guiding star for the work of reformation."[1]

In considering the process of interesting greater numbers in the constitution by investing them with political rights, we meet with the fact that the proportionate interest felt by the constituency appears to diminish as the numbers of the constituency increase. It is found that in the larger constituencies about fifty-five per cent., and in the smaller ones about ninety-two per cent., of the electors recorded their votes on the occasion of contests at the same general election.[2] This divergence from representation is still more apparent when the active elements,—the fifty-five per cent.,—are further reduced by taking from them the minority,—the voice of which is extinguished, and which consists of about two-thirds,—leaving the numbers actually represented in the larger constituency as about thirty-three per cent. The unrepresented portion is not only great in numbers; but there is no doubt that in many populous boroughs it also contains the largest portion of the educated classes, of those to which, in every view of representative institutions, it is desirable that full weight should be given. It is therefore of paramount importance to discover, and if possible remove, the causes which tend practically to exclude from representation so extensive and valuable a part of the electoral element; and this is now of especial urgency, as every step in the extension of political privileges, whilst it has the effect of changing the class in which power resides, increases at the same time the disturbing causes that interfere with and are evidently obstacles to true representation.

A perfect *representation* is plainly inconsistent with the exclusion of minorities; but the subject of representation would be very inadequately conceived, if it were regarded as a mere question between majorities and minorities. The formation of electoral majorities and minorities is no more the

[1] Id., p. 17.

[2] *Edinburgh Review*, vol xcv., pp. 279, 280.

natural means of arriving at political representation than it would be a natural result of any other association that it should be divided into two parties, one perpetually labouring to counteract the wishes of the other. The order and the occupations of mankind,—the distribution of population, and the supply of its necessities, are all provided for by physical and moral laws operating on the diversities of nature and of character which are found amongst men. These differences preserve the harmony and the vitality of social life. In political sentiment there is not less variety than in the other motives of human conduct; and abstractedly it would be no more likely that the political opinions of the electors of a borough should fall into two or three antagonistic divisions, than that they should be composed of twenty, fifty, or a hundred distinct views or conceptions. The dissimilarity would be much more probable than the similarity. Opinion and action in politics would be as various as opinion and action in other sciences, if there were not causes that enter into political bodies, and create a disturbed and unhealthy movement, provoking antagonistic divisions.

On the occasion of adverse desires in a society composed of many free agents, the majority *must* necessarily decide; but in the formation of a representative body, the purpose is that the body thus to be created, and not the constituent body, is to be intrusted with the power of decision. If that were the function of the constituent body, there would be no necessity for appointing the representative. It is, consequently, by the majority of the representative body that the decision must be pronounced. It is that majority which speaks for the whole, and is irresistible. It may be likened to an engine of enormous power which crushes all opposing forces. The election is the process by which this engine is constructed; but it is not necessary to the efficiency of the engine that the same overpowering force should have been employed in the process of its construction. It is when the engine is formed that we

require its power to be exercised;—whilst the engine is being made,—it is the engine we want, and not the power.

The conduct of men may be actuated by two different motives, one, the desire to do that which is believed to be right,—the other, the desire to do that which shall be attended with direct success. A parliamentary representative is to be chosen by two or three thousand electors, and opinions and interests are greatly divided;—two questions may present themselves to every elector,—the one,—who is the person best fitted by character and talent to fill an office in the duties of which the interests of the nation, to an incalculable extent, may be involved,—and the other, who will my co-electors be most likely to choose? In other words,—what is right, and what will succeed?

It may be answered, that abstract right, when considered by a prudent man, resolves itself into a question of expediency and practicability,—that it is a case of compromise;—and that, therefore, the second question is that which such a man is justified in asking. It is true that in all political action we must consider what is expedient and practicable. This is the well-known and just defence of party action. Singly, one man can do little, and yet, by combining his efforts with others having similar objects, he may accomplish much. But it is necessary to consider under what conditions an individual is placed when he is called upon to yield up his own opinions of rectitude and prudence. To what extent is the will at liberty? That which is a free concession amongst persons who have associated voluntarily, to pursue the same objects and the same means,—as the partners or shareholders in a company, or the members of a particular society, may be, and most commonly is, entirely different, when the persons collected together are infinitely various in character, disposition and object, and their association is compulsory and not voluntary. In such a case the question ceases to be of the nature of a compromise, and becomes one of mastery. Instead

of yielding to the opinion of others with whom the elector has been led to associate by the existence of some mutual basis of sympathy or harmony, he is, in the case supposed, obliged, in order to succeed, to give up his own opinions to those who form the most numerous portion of his co-electors, the greater number being, as one of the conditions of nature, the lower in capacity, and he is obliged also to take into account all the disturbing and corrupting influences which may prevail. He is,—to refer again to the analogy of party,—in the position that a member of Parliament would be in,—if, instead of attaching himself to the party with which he sympathises and is content to act,—he found himself indissolubly bound to a section,—say of fifty other members whom he has had no part in selecting,—and unable to take any step in which he cannot persuade the majority of the fifty to concur. If he does not remain inactive, his objects must be lowered to, and measured by, theirs. This condition is parallel to that of the elector who is forced to act on the answer to the second question, instead of the first and true one.

The necessity of obtaining a majority involves the necessity of creating a party, adopting a party name, and putting forward some party tenet, or dogma, to all of which the majority must lend itself. It is not usually the political tenet which has caused the party, but the party which has created the tenet. In none of these things, any more than in the choice of their representative, can the members of the majority usefully ask themselves what they ought to do,—the only practical question is, what will be successful? Thus, the process of creating the majority demoralises most of those who compose it: it demoralises them in this sense, that it excludes the action of their higher moral attributes, and brings into operation the lower motives. They are compelled to disregard all individuality, and, therefore, all genuine earnestness of opinion, to discard their political knowledge,—their deliberate judgment,—their calm and conscientious reflection,—

all must be withdrawn or brought down to a conformity with those who possess the least of these qualities.[1] The same injurious influences, in a measure, operate on the minorities, whenever they make a decided stand for the purpose of contesting a seat. The most intelligent will have submitted to the most numerous, except that, in the minorities, the greater apprehension of defeat may have led the more numerous classes within it to raise their standard of choice in order to increase their hopes of success.

Whilst this process of deterioration is going on throughout those who compose the *active* parties, a result even more fatal to the design of true representation is produced on another large, intelligent, and more scrupulous class of persons, who feel no disposition to make themselves the instruments of giving effect to the views of others with whom they have no common object or sympathy. These, therefore, take no part in the business of choosing those who are nominally to represent them. We find, as it has been observed, that, in the large constituencies, nearly half of the electors are, for all useful purposes, in the same position as if they were disfranchised.

A system which forms the electoral body into adverse parties,—arrayed under formal names which are themselves exaggerations calculated to excite hostility where none really exists,—has thus the effect of preventing the expression of the true and individual opinions of the members who compose either party. It lowers the force of thought and conscience, reduces the most valuable electoral elements to inaction,—and converts the better motives of those who act, into an effort for success and a mere calculation of the means of accomplishing it. It is not therefore surprising that we hear of the infirmities of representative institutions, and that many persons should be unable to look forward without terror to the aggra-

[1] It is by no means uncommon to hear persons state that they vote for a particular candidate, not from any appreciation of his merits, but to exclude some other candidate to whom they are more averse.

vation of their more obvious evils by any large extension of some of the causes which produce them.

If these consequences be inevitable,—if in the progress of constitutional government we are exposed to the danger of excluding from their just share in representation the more educated and intelligent classes,—and of paralysing in political life the action of the infinite varieties of disposition and sentiment which are found in society,—if there be no means of making representation a reality,—the infirmity of the institution must be borne. It is useless to lament that for which no remedy can be found. It must be accepted as the lot, and part of the discipline, of humanity. But, at least, every effort of the understanding should be brought to bear on the question, whether the representative system be not capable of more perfect development than it has yet received. No time perhaps was ever more favourable to the inquiry. The inconsistencies and anomalies of the existing system have been long felt, and successive governments have addressed themselves to its improvement. The patriotism of every class has been challenged, and at no former period has so general a disposition been evinced to abandon long-cherished traditions and opinions, and adopt such a revision of the representative system as may appear most likely to be conducive to the public good.

If, after the construction of the representative body shall have received the aid of all that thought which the importance of the subject imperatively demands, it be held impossible to render it a perfect expression of the sense of the people, or more than of the will of a multitude of detached majorities, *that* should be recorded as a fact, and received as a distinct constitutional principle. If it be a necessity of government that a multitude of petty majorities,—for petty they must be compared with the nation,—shall exclusively elect the representative assembly, let it be the declared and acknowledged form of the constitution. It is due to the more

thoughtful and scrupulous of the electoral body, as well as to the minorities, and not more to them than to the precepts of truth and justice, that the principle should be distinctly propounded,—and it is very different from the principle of true representation,—that not the representatives of the people or of all those who possess the suffrage,—but, representatives chosen by the resolved and active majorities of certain arbitrarily-formed electoral bodies,—are to be consulted in making the laws. The whole people may be bound to obey the laws thus made, but that does not make the nominees of a part the representatives of all. It may be claimed as a homage to what is just and true, that it be not falsely imputed to any class of persons that they are represented by men whose views and opinions are utterly repugnant to their own. The member elected in every constituency may be returned as representing so many as shall vote for him, but not as representing those who do not vote for him, or who oppose him. The democracies of former times asserted their power, but did not assert an untruth. The necessity of obedience to the law, wherever the power of making it may reside, is easily seen: if it be concluded that there is a necessity for depositing the power in the combined majorities, the nation must bow to that authority,—but there can be no necessity that our institutions should be founded on an untruth or a fiction. They should stand on substance and reality. Let the representation be declared to be what it truly is, and not what it is not.

It will be observed, that the causes which operate to render the franchise valueless or ineffectual to large and intelligent classes, are causes peculiar to an advanced state of civilisation; and we may properly seek, in the increased knowledge which accompanies social progress, the means of removing the impediments to representation which it discovers. Representation itself is a matter of daily occurrence, and common necessity. It is the vicarious performance of duties which

cannot be personally executed. It intervenes in commerce, in jurisprudence, in education, and in a thousand other forms. In a multitude of circumstances people are compelled to place themselves and their interests in the hands of others. The exercise of individual judgment and deliberation suffices for all these purposes; and if, in the choice of their parliamentary representatives, the electors were freed from the embarrassing restrictions by which their action is incumbered, there is no reason to doubt that they would employ the same care and caution as that with which they select persons to fill other fiduciary or vicarious offices.

The object of this Treatise[1] is to show that the attainment of a perfect system of personal representation is not opposed by any difficulties inherent in the subject; and that such a system is not only consistent with the due and just representation of every class and interest in the kingdom, as well as of the public which comprises all, but that it affords the most permanent and certain mode of representing and expressing the special views and opinions of all interests and classes; and that it also goes very far to remove, even if it does not entirely obviate, all the sinister influences which have been hitherto found to prevail in the collection of the suffrages of the electors. It will be seen that personal representation, to be perfectly carried out, must be founded upon the basis of individual independence; that such independence

[1] The author first published the principle of the suggestions contained in this Treatise soon after the general election of 1857, in a pamphlet intituled *The Machinery of Representation* (Maxwell, Bell Yard). A note to the same pamphlet, and, subsequently, a second edition, was published in the same year, the details being materially altered, and brought much nearer their present shape. The communications which the author from time to time received, led him to believe that the scheme had excited interest in the minds of many who had given much thought to this and kindred subjects; and that it was generally considered to stand in need of development more in the way of showing its practicability, than of proving the value of the objects which it was directed to attain.

may be obtained without departing from any of our traditional forms of electoral incorporation,—and that it even affords peculiar facilities for giving greater scope and expansion to such local and traditional combinations. The electoral arrangements which are proposed require no operation that cannot readily be executed by instruments which the administrator will always have at his command; and they prescribe no duty, which any person of ordinary capacity is not competent to perform. It is only necessary to resort to those common aids which education and science now afford,—the knowledge of letters, which was not implied in times when the election was made by a show of hands,—and the means of rapid conveyance and transport, which were not possessed by former generations.

With a view to avoid any expressions which might be vague or indeterminate, to render the proposal definite and precise, and enable its practicability to be readily and distinctly considered, the whole scheme has been wrought into the form of a supposed electoral law, the clauses of which are distributed amongst the several chapters,—following the respective branches of the subjects to which they relate, and in which are explanations of the principle, the purpose, and the operation of every clause. A table has also been introduced, showing the entire law, and referring to the pages in which every clause will be severally found.

If, by the means which are here proposed, or by any which are better and wiser, an electoral system can be established, which, in the work of forming a representative body, shall succeed in calling into action all the thought and intellect of the nation, the effect would be to create a new object of inquiry and study, extending over a field of which we know not the bounds. All attempts to engage society in political conflicts for abstract principles would be thenceforth vain, and statesmen would seek to build their fame on something more

solid and durable than party triumphs. A representation of all intelligences, founded upon a wisely-regulated franchise, *cannot* be dangerous; it would contain within it breadth, symmetry, cohesion, and durability,—all the elements of strength and safety, and would possess, moreover, a capacity and a disposition for social improvement, without any limit but that of the human faculties.

Gosbury Hill, Kingston-on-Thames,
January, 1859.

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THE

ELECTION OF REPRESENTATIVES, &c.

CHAPTER I.

THE REPRESENTATION OF MAJORITIES, MINORITIES, AND INDIVIDUALS.

THE position which majorities and minorities of the people should respectively occupy in representative government has, within a few years past, been frequently considered. The title or claim of majorities to be exclusively regarded and obeyed must have its foundation either in agreement or in force. The power of acting by a majority, so far as it depends on an agreement, Mr. Burke observes, "must be grounded on two assumptions, first, that of an incorporation produced by unanimity; and, secondly, an unanimous agreement that the act of a mere majority (say of one) shall pass, with them and with others, as the act of the whole."[1] He adds: "If men dissolve their ancient incorporation, in order to regenerate their community, in that state of things each man has a right, if he pleases, to remain an individual. Any number of individuals, who can agree upon it, have an undoubted right to form themselves into a state apart and wholly independent. If any of these is forced into the fellowship of another, this is conquest, and not compact. On every principle which supposes society to be in virtue of a free covenant, this compulsive incorporation must be null and void."[2] M. Guizot, treating of the same subject, points

[1] *Appeal from the New to the Old Whigs.* 3rd ed., p. 103. [2] Id., p. 105.

out the inconsistency of the claim of the majority to absolute power, with another principle, sometimes asserted, which affirms a right in every individual to be governed only by those laws to which he has given his assent,[1] unless the latter be accompanied with a right in the minority to withdraw themselves from the state. He adds, "dans l'idée de majorité entrent deux éléments très différents; l'idée d'une opinion qui est accréditée, et celle d'une force qui est prépondérante. Comme force, la majorité n'a aucun droit que celui de la force même qui ne peut être, à ce titre seul, la souveraineté légitime. Comme opinion la majorité est-elle infaillible? Sait-elle et veut-elle toujours la raison, la justice, qui sont la vraie loi et confèrent seules la souveraineté légitime? L'expérience dépose du contraire. La majorité en tant que majorité, c'est-à-dire en tant que nombre, ne possède donc la souveraineté légitime, ni en vertu de la force qui ne la confère jamais, ni en vertu de l'infaillibilité qu'elle n'a point."[2]

The majority in the sense which expresses the major or greater power has ever been purely conventional, some civil institutions requiring it to be composed of a greater and some of a less number of voices. It may be, either a majority consisting of the more numerous of two bodies supporting respectively two contrary propositions, or of the more numerous of several bodies supporting respectively several distinct propositions. If ten propositions, or, which is the same thing, ten candidates be offered to the choice of fifty persons, that they may select one of the ten, six of the fifty persons might form the majority, and the voices of forty-four have no

[1] *Histoire des Origines du Gouvernement Représentatif*, vol. i., p. 106. Paris, 1851.

[2] Ll., p. 107. Sir George Cornewall Lewis has collected the reasons given for the rule that the decision of the majority shall govern, and remarks that they are exhausted in Barbeyrac's translation of *Puffendorf*, in which the rule is simply founded on this;—"parce qu'il n'y a presque point d'autre expédient pour terminer les affaires."—*Essay on the Influence of Authority in Matters of Opinion*, § 246, new ed. London, Parker, 1849.

weight. If there be no law—as in our electoral system there is no law—which requires a moiety, or any definite proportion of the entire body, including both the present or active and the absent or inactive members to form an effectual majority, the six must prevail, and yet the excluded candidates, or propositions, might perfectly express the sentiments of those who put them forward; and, moreover, may even be in harmony with the opinions of the most part of the fifty voters, and who are thus silenced by the six. An attempt has been made in a few recent borough elections to prevent the division of parties or interests amongst several candidates, by subjecting them to the difficult, cumbrous, and often illusory trial of a preliminary ballot. Under the prevailing systems, some means of giving unity to party action becomes, indeed, indispensable unless the result be abandoned to accident or chance. In America it has led to that species of political movement known by the appellation of the "caucus."[1] It is, in fact, the method by which a few clever and adroit persons substitute their dictation for that of the leadership which, in earlier times, was conceded to territorial power, high birth, or natures fitted to command. The misfortune is that the qualities which are best adapted to succeed by intrigue, cajolery, and pandering to mean desires and appetites are far more common and degrading than those which formerly compelled submission, if they did not always inspire confidence.

With regard to the character of government by a numerical majority, where there is no constitutional provision for giving due weight to the minority, it is useful to listen to republican statesmen. Mr. Calhoun, who occupied at different times some of the highest offices in the government of the United States, and who studied American institutions with

[1] For the origin of this word, see *Pickering's Vocabulary*, Boston, 1816; *Webster's Dictionary*, New York, 1828. On the operation of the caucus, *Tremenheere, Constitution of the United States*, p. 223.

the aid of long experience, employed his latest hours and his most elaborate efforts, in a work designed as a warning against the dangers of that absolutism which would result from committing the destinies of the country to the uncontrolled government of the numerical majority. The right of suffrage, he says, is, indeed, the indispensable and primary principle; "but it would be a great and dangerous mistake to suppose, as many do, that it is of itself sufficient to form constitutional governments."[1] "To this erroneous opinion," he adds, "may be traced one of the causes why so few attempts to form constitutional governments have succeeded; and why, of the few which have, so small a number have had a durable existence. It has led not only to mistakes in the attempt to form such governments, but to their overthrow, when they have, by some good fortune, been correctly formed. So far from being of itself sufficient—however well guarded it might be, and however enlightened the people—it would, unaided by other provisions, leave the government as absolute as it would be in the hands of irresponsible rulers, and with a tendency, at least as strong, towards oppression and abuse of its powers."[2] "The more extensive and populous the country, the more diversified the condition and pursuits of its population; and the richer, more luxurious, and dissimilar the people, the more difficult it is to equalise the action of the government, and the more easy for one portion of the community to pervert its powers to oppress and plunder the other."[3] "The dominant majority for the time," he repeats, "would have the same tendency to oppression and abuse of power, which, without the right of suffrage, irresponsible rulers would have. No reason, indeed, can be assigned why the latter would abuse their power, which would not apply

[1] *A Disquisition on Government, and a Discourse on the Constitution and Government of the United States, by John C. Calhoun.* Edited by R. C. Cralle, p. 13. Charleston, 1851.

[2] Id., p. 13. [3] Id., p. 16.

with equal force to the former. The dominant majority for the time would, in reality, through the right of suffrage, be the rulers—the controlling, governing, and irresponsible power,—and those who make and execute the laws would, for the time, in reality be but their representatives and agents."[1] And he proceeds to show that the abuse of the power which would thus be acquired, could only be counteracted by giving to each division, or interest, through its appropriate organ, a concurrent voice.[2] The majority which is formed by this concurrence he calls the constitutional majority, in contradistinction to that which is obtained by treating the whole community as a unit, having but one common interest. "The first and leading error," he says, "which naturally arises from overlooking the distinction referred to, is to confound the numerical majority with the people, and this so completely as to regard them as identical. This is a consequence that necessarily results from considering the numerical as the only majority. All admit, that a popular government, or democracy, is the government of the people; for the terms imply this. A perfect government of the kind would be one which would embrace the consent of every citizen, or member, of the community; but as this is impracticable, in the opinion of those who regard the numerical as the only majority, and who can perceive no other way by which the sense of the people can be taken, they are compelled to adopt this as the only true basis of popular government, in contradistinction to governments of the aristocratical or monarchical form. Being thus constrained, they are, in the next place, forced to regard the numerical majority as, in effect, the entire people; that is, the greater part as the whole; and the government of the greater part as the government of the whole."[3]

The work being adapted to a republican form of government, contains observations on a political organism, by the

[1] Id., p. 22. [2] Id., p. 25. [3] Id., p. 27.

concurrence and veto of different bodies, which happily is, in this country, provided for by a different constitution; but all the remarks on the error of so dealing with numbers as to extinguish interests, is equally applicable to the constitution of the House of Commons. The danger of a popular body, unbalanced by the introduction of elements other than those which have their origin in a triumphant numerical force, is stated, with equal confidence, by Mr. Burke. He says,—"Of this I am certain, that, in a democracy, the majority of the citizens is capable of exercising the most cruel oppressions upon the minority, whenever strong divisions prevail in that kind of polity, as they often must; and that oppression of the minority will extend to far greater numbers, and will be carried on with much greater fury, than can almost ever be apprehended from the dominion of a single sceptre."[1]

Those who contend that neither good government nor individual liberty is necessarily secured by a suffrage which commits the government absolutely to the numerical majority, do not, therefore, argue that there must not be a resort to arithmetic. It is impossible to suppose a popular form of government in which the votes must not be counted. The problem of constitutional organism is, in what manner the individuals composing the entire community are to be classed so that no opinions or interests shall be unheard, or extinguished, in representation.

Most of the advocates for the amendment of our system of representation seem content with, or to despair of obtaining anything better than, a division of the country into certain districts or localities.[2]

[1] *Reflections on the French Revolution*, &c., p. 186. See *Mill, Considerations on Representative Government*, c. vi. (Note to 3rd ed.)

[2] Lord Grey, in the last edition of his work on *Parliamentary Government* (pp. 209—213), has suggested that the votes of graduates of colleges and universities, and of workmen in trades, to be incorporated for the purpose, might be taken without regard to localities, but still, as I gather, by majorities, and not in unanimity, as here proposed. (Note to 3rd ed.)

If it were not a low and unbecoming view of political parties to liken them to enemies in a hostile camp, a case might be imagined of the division of the electors generally into two classes: one satisfied with the condition of things, apprehensive of the consequences of change, and ready to oppose all experiments the utility of which is not manifest; and the other uneasy in their position, imagining that social alterations might be made which would ameliorate their condition, and who are not deterred by the apprehension of consequences which they do not see or admit. Supposing there were a contest between these classes, a struggle, not of arms, but of the peaceable forces which are brought to bear in the operation of representative institutions, and the proportion in which these classes is found in every locality be, for the purpose of argument, taken as two to three, the majority of every constituency would, of course, elect a representative of the more numerous class. If five constituencies be taken as the entire number, there would be in the representative assembly five members for the party of progress and *none* for the party of preservation; whilst, in justice, the majority and minority ought to stand in the constituted assembly in the same proportion as in their constituents, that is, three against two. It is clear, as a matter of strategy, that by the defeat in every constituency of the detached minorities, the less numerous class have no means of meeting their adversaries in the representative council, but are previously cut off in detail.

"Le but du gouvernement représentatif est de mettre publiquement en présence et aux prises les grands intérêts, les opinions diverses, qui se partagent la société et s'en disputent l'empire, dans la juste confiance que, de leurs débats, sortiront la connaissance et l'adoption des lois et des mesures qui conviennent le mieux aux pays en général. Ce but n'est atteint que par le triomphe de la vraie majorité, la minorité constamment présente et entendue. Si la majorité est déplacée par artifice il y a mensonge. Si la minorité est

d'avance hors de combat, il y a oppression. Dans l'un ou l'autre cas, le gouvernement représentatif est corrompu."[1]

In the general election of 1852, the aggregate number of votes polled by the majorities where the seats were contested was 291,118, whilst the minorities polled 199,994. These numbers may, with sufficient accuracy, be treated as represented by three and two; and if the same calculation be extended to the whole of the constituencies, and taken as expressing the silent and suppressed differences of opinion where no contest was attempted, it would appear that 500,000 electors are not represented, except, by a sort of fiction of law, their opinions are supposed to be expressed by other means. If liberalism be triumphant in one constituency, conservatism, it is answered, is triumphant in another. The argument is as untenable as the principle is dangerous. It is not the fact that the opinions suppressed by the electoral voice at one place are expressed in those of another. It has been truly said that "the separation of parties according to localities does not even approach completeness. The number of localities in which any given opinions prevail are not proportioned to the general prevalence of those opinions. Large political parties are widely scattered and intermixed throughout the country."[2] This supposed system of balances and counteractions is the *ignis fatuus* of the politicians of this century, and the source of jealousies and wranglings without end. It recedes as they pursue it. No sooner do they imagine that its elements are caught and fixed upon their canvas than they are gone like a dissolving view. The discovery or the opening up of some unexpected mineral wealth creates a town on a barren moor. Commerce establishes a thriving port where stood the hovels of a few fishermen. A rapidly-increasing population overflows the boundaries of the city. The ease and rapidity of

[1] *Guizot, Gouvernement Représentatif*, vol. ii., p. 259.

[2] *Edinburgh Review*, vol. c., p. 229.

locomotion open to the middle classes of the towns the advantages and the pleasures of rural life. The more agreeable sites of a country, rich in natural beauties, are being covered with the dwellings of classes who were formerly a town population. On the shores of our island coast, wherever they can be approached, on every hill-side and in every valley from which can be beheld

"The many-twinkling smile of ocean,"

the builder is constantly engaged in the construction of dwellings replete with comfort, if not remarkable for architectural beauty. Numerous residences, many almost of palatial character, have in several places, in less than half a century, formed, what in earlier times would have deserved and received the name of cities, but are now hardly recognised as municipalities. The rate of progress of the first forty years of that period was as nothing to that of the last ten years; and probably the progress of the last ten years will be inconceivably outstripped by that of the ten which are to come. Industry, education, the progress of civilisation, and the diffusion of higher tastes and enjoyments, all contribute to defeat every attempt to attach special interests or objects to specific districts. The lines of distinction between the town and country population become more and more faint, and are constantly shifting their places. To form a constitution on such a foundation is to build on sand.

Let it be supposed, however, that it were possible to succeed in accomplishing that which the changes in society forbid, the system would be founded upon injustice, and, therefore, could not be permanent. To contend that, although the opinion and sympathies of a minority are set at defiance in one place, it is a sufficient justification for this state of things that persons, whose opinions correspond with those of that minority, may form a majority in some other place, and that they then succeed in suppressing the voices of those whose

opinions are in harmony with the victorious party elsewhere, is to set up one great evil as a compensation for another. "Can it," inquires the writer last quoted, "be seriously argued that to balance one great mischief against another, is as well and as safe a mode of proceeding as an endeavour to avert both?" Political action, instead of being the result of a steady and legitimate adaptation of means to an end, is converted into a game of chance, a speculation in which the failure upon one card is to be compensated by success upon another, and, by the sacrifice of the active and cordial assistance and adherence of two-thirds of the people, we even profess to gain no more than the same relative power for each of two or more parties, which they may have obtained without such sacrifice. Assuming, however, that the equivalent result, as a matter of party warfare, were in this manner obtained, the purpose of constitutional and representative government would be as far off as ever. The purpose of such a government is not satisfied by dividing the nation into two parties, and converting the area of legislation into a battle-field. It is not necessary here to discuss the merits of party government, it is enough to say, that in the vast field of modern legislation, in the adaptation of our ancient institutions to a new state of society, and in providing for new emergencies, a multitude of political and social problems come to be solved with which party has nothing to do, and into which the introduction of party elements and considerations is not only useless, but is absolutely pernicious. It is obvious that the tendency of a system of government founded on numerical majorities alone, is to absorb all differences into one issue—a contest for power. The extension of knowledge and the progress of civilization open the door of inquiry, prompt activity of thought, encourage diversities of opinion, and thus lead the way to social improvement; but the benefit of this progress in the composition of a representative assembly is excluded when every variety of opinion and shadow of thought is expurgated—thrown aside

as so much lumber, in order that both sides may come unencumbered to the trial of strength which is to determine the single issue—the possession of power. Such a result would be impossible if full play were given to the partialities which arise from individual character and sympathy, for these would be in constant rebellion against the tyranny of faction, and would moderate its influence even amongst those who might be subject to it. Every man, according to the degree in which he is intellectual, and possesses public spirit, would bring his talent and weight to the public aid, in the business of concentrating in the representative assembly a selection of the best minds of the nation, and the statesmen who shall have been proved by experience to be trustworthy; and the deposit of official power, from time to time, would be safely left to an assembly thus constituted, under the conditions which our parliamentary system imposes.

In the selection or choice of representatives we require the aid of the multitude of electors whose votes are rendered useless, and whose judgment is thus rejected. Instead of damping and extinguishing their patriotic zeal by destroying that hope of the utility of exertion which can alone keep it alive, every disposition to political action on the part of every worthy and sensible citizen should be encouraged and assisted. By making elections nothing but a question of adhesion to one of two or three parties, the standard of merit and qualification in the candidate is lowered to a bare question of party tests.

It has been seen that about half a million of voters are in this country incapable of securing a representation by any act of their own. The public loss is surely not trifling. To what a multitude of subjects of public and private interest have the thoughts and studies of large numbers amongst that half million of voters been directed! If we go through many of the streets and squares of the metropolitan boroughs, and form our conclusions of the intellectual rank of the inhabit-

ants from their probable education and means of acquiring knowledge, and when we know that of these thousands would in vain approach the hustings to give expression to their views or opinions, it is impossible to look on the nominal representation of the metropolis as other than a mockery of the name. Yet the House of Commons has been truly described as "a place where minorities, heresies, oppositions, remonstrances, and protests of all sorts are to be represented and entitled to a hearing, and it is intended to comprehend, and not to exclude them."

"Le but du système représentatif, dans ses éléments généraux, comme dans tous les détails de son organisation, est de recueillir, de concentrer toute la raison qui existe éparse dans la société, et de l'appliquer à son gouvernement."[1]

If our present method of obtaining this concentration of the national reason be considered with analogy to operations connected with the material world, the comparison at once displays its unscientific character. Two-fifths of the intelligence of the country is lost in the process. It is a waste of material which would have been a reproach to any operation in physical science in its rudest day; even if the material so lost were only of the average value of that of which the constituencies are composed; but it is far more lamentable: it is considered that the material thus lost comprises a very large proportion of the best moral and intellectual elements of society, whilst the process of local condensation to which the numerical majorities owe their success has done much to extinguish independent thought, convert men into machines, and thereby deteriorate the result of the votes by which the supposed representative assembly has been actually chosen.

The first and greatest practical attempt which was made, at least in this country, to remedy this defect in representative institutions was the provision introduced by Lord John Russell in the bill of 1854. It was proposed that, in cities

[1] *Guizot, Gouvernement Représentatif*, vol. ii., p. 253.

and boroughs returning three members, no elector should vote for more than two, which would have the effect of permitting a minority of two-fifths of the constituency to return one member. The design was to obviate the dissatisfaction of large numbers of electors forming the minorities in popular constituencies.[1] The way in which the proposal has been received, whilst it is a painful symptom of the present tone of our political life, is instructive, as showing the arbitrary and intolerant character of majorities. It affords an illustration of the principle which has been quoted from the work of Mr. Calhoun, a principle which all history corroborates, that government by numbers is not less insatiable of power, and certainly not more scrupulous of the claims of those who are without its pale, than any other absolute, uncontrolled, and irresponsible authority. "Ils savent très bien," says M. Sismondi, "ce qu'ils demandent quand ils veulent que le pouvoir de la partie intellectuelle de la nation se trouve noyé dans celui de la masse ignorante et passionnée."[2] Abstractedly, it cannot be denied that the proposal for the representation of minorities was moderate and reasonable. Take, for example, a constituency of 20,000—as Finsbury—of which we will suppose that 12,000 are the major, and 8000 the minor, portion. A plan which would give the majority two representatives, and the minority one, might be thought likely to recommend itself to men who desire that the same (or even something less than the same) measure of justice should be extended to others which they require for themselves. Arithmetically, the minority of 8000 are only placed on an equality with 6000, or half of the majority, and might still not unfairly complain of the disproportion. But the majorities, and the representatives of the majorities, look at the subject with different eyes. From having been empowered to return

[1] *Parl. Hist.*, vol. cxxx., p. 498; *Mill, Considerations on Representative Government*, p. 138, 2nd ed.

[2] *Correspondence*, &c., p. 135.

the members for the constituency, they have come to regard themselves as forming the constituency. They claim not only to be fully, but to be exclusively, represented,—not only that they shall themselves be represented, but that no other persons in the community, or borough, besides themselves shall be so. If the minority ask for that humbler share of the representation which would fall to their lot after the majority had exhausted its demands, they do but invite the reply of the lion in the fable, which La Fontaine renders—

"Si quelqu'un de vous touche à la quatrième
Je l'étranglerai tout d'abord."

It is the contemptuous rejoinder of overwhelming force which insists, not upon equality, but domination. Those who, in this country, or who in establishing representative institutions in the colonies, have advocated the policy of conferring on minorities some power of securing, at least, a partial representation, have been stigmatised as unsound reformers,—as enemies to the sovereign will of the majority. The majority which is meant is not the true, and, as it is termed by Mr. Calhoun, the concurrent and constitutional majority of the nation, —the result of a free and comprehensive organisation of all interests and all opinions; but the majority of mere numbers at whose shrine all interests and all opinions are to be immolated.

The form of the proposal for the representation of minorities is, no doubt, open to several objections. It would have operated very partially in reaching only a few constituencies; in the far greater number it would leave the evil untouched. Whilst the law would recognise, in a measure, the injustice of extinguishing the opinions of minorities, it would, at the same time, declare to the minorities in most constituencies that, however entitled to respect they might be from their intelligence or their aggregate numbers, still they are not, individually, large enough to be protected. Even in the constituencies to which it applied a minority considerably more in number than one-third of the entire constituency might, by

no very difficult organisation on the part of the majority, be entirely defeated, although in fairness one-third of the constituency would be entitled to elect one of the three members. Suppose the case of eighty-four voters, of whom, say, fifty-one are supporters of the ministry, and thirty-three of the opposition, and that there are four candidates, A, B, and C, of the ministerial party, and D of the opposition. It might be supposed that the minority would succeed in returning D; but this would be prevented by the majority dividing themselves into three distinct bodies of seventeen each, one of which shall vote for A and B, another for B and C, and the third for A and C. The consequence would be, that each of the three ministerial candidates would have thirty-four votes, and all would be returned, and the thirty-three votes of the minority would be silenced.[1]

The consideration which the subject has received has led to other proposals for giving expression to the opinions of minorities. The cumulative vote suggested in 1857, by Mr. James Garth Marshall, has been recently pointed out by Lord Grey as a great improvement under any circumstances, but indispensable if any changes favourable to democratic power are to be admitted.[2] To apply this system generally, he proposes, by enlarging some borough boundaries and merging other boroughs into their counties, to create electoral districts, with a maximum and minimum of voters, returning three or more members.[3] For example, the voters in a constituency of 3000, electing three members, may give their three

[1] The possibility of this organisation was, I believe, first pointed out in a political tract, published in 1861, in South Australia, by Miss Spence, intituled *A Plea for a Pure Democracy*, being suggestions for the application to the colony of the system of election proposed in this treatise.

[2] *Parliamentary Government, &c.*, by Earl Grey. 1864. P. 203.

[3] Id., p. 245. In a paper read in 1860, I showed the manner in which cumulative voting might be applied to an adaptation of the system proposed in this treatise. It merely multiplies figures, and thus conveys a delusive idea of greater electoral power. See *Journal of the Statistical Society*. June, 1860. Pp. 337, 347.

votes to one candidate, which would enable a combination of 751 voters to return a member, and prevent the injustice of allowing 1501 to suppress the voices of 1499. This arrangement, however, provides only for the representation of one of, perhaps, many minorities. The varieties of opinion and feeling embraced in a constituency so large as one of those to which three members are proposed to be given, would be very inadequately expressed by any three representatives. Many minorities, dissenting on principles of gravity and importance, would still be omitted. The means by which the 751, the 1501, or the 2250 voters, who are not associated by any pervading harmony of mind or feeling, but are gathered together by the mere accident of living in the same district or town, are led or forced, on pain of political extinction, always to agree in the choice of their representatives, are inconsistent with the free exercise of individual will, guided by those diversities of thought and sentiment upon which men form their various estimates of character; and their subjection to such compulsion tends to the mental and moral deterioration both of the electors and the elected. All such systems, which refuse to recognise men as individuals, and regard them only as forming political parties, are, therefore, essentially incomplete.[1] The common allegation or

[1] Two other methods of securing the representation of minorities have been propounded. The first in a tract, *De la Représentation des Minorités*, par A. Morin, Genève, 1862, which deserves an attentive perusal. An extract from the work, explaining his proposed system, will be found in Appendix A. The second proposal for effecting a like object is contained in a publication entitled *Methode, bei jeder Art von Wahlen sowohl der Mehrheit als den Minderheiten die ihrer Stärke entsprechende Zahl von Vertreten zu sichern.* Dargestellt von Dr. Gustav Burnitz und Dr. Georg Varrentrapp. Frankfurt-a-M., 1863. By this system the first, second, third, etc., votes on every voting paper are valued or receive a weight determined by the order in which they stand. See Appendix B. I some years ago suggested this method of determining the value of votes (*The Machinery of Representation*, pp. 22, 55. Maxwell, 1857. 2nd ed.), but afterwards abandoned it, for reasons which I have hereafter referred to. See Appendix C.

excuse that persons are virtually represented is an unmeaning phrase.

Looking at the place which representative institutions are apparently destined to fill in the government of mankind, it becomes of the highest importance to consider whether means cannot be found to eradicate the vice in their constitution which deprives the state of the benefit of the judgment—it is to be feared of a large number—of the most calm and dispassionate, as well as of the most instructed and thoughtful of its people. The problem is, how to render representation in fact what it is in name,—to make it universally truthful, and to give to the best elements in every constituency their best and most perfect expression.

The founders of our parliamentary system,—if that appellation can be justly conferred upon any particular men in any age,—did not contemplate, and could not provide, for the difference of political opinion to be evolved in the progress of civilisation. Yet, on the other hand, they certainly did not contemplate a state of things in which the will of a vast proportion of those whom they entrusted with the franchise would be wholly disregarded. It is remarkable that the writs require the returning officers to send the knights and burgesses to Parliament "with full and sufficient powers;"[1]—a form of expression which students of common law know is inconsistent with the existence of a body of electors who repudiate the person whom the others have nominated, and refuse to concur in investing him with such powers. Such a disagreement, except as a thing to be at once determined by the sword, or by some other compulsion, did not, perhaps, enter into the imagination of the framers of the simple forms of proceeding in those early times. It is probable that the idea of the constitution and unanimity of the jury pervaded the minds of the framers of the writ, and that they, not unrea-

[1] *Brady, Histor. Treat.* Lond., 1777, p. 54. *Hallam's Middle Ages, Eng. Const.*, c. 8, part 3.

sonably, relied on a sufficient uniformity of action, being, as in that institution, produced, by the necessity of compromise. It is, in truth, this very necessity of compromise,—the exigencies under which something of every individual or every combined will, is yielded to the general concord,—which regulates and harmonises all the business of domestic and social, as well as political, life, wherever that harmony is happily established.

A great empire has been compared to a partnership, though of a loftier kind than those which are formed for purposes of trade, or objects of occasional interest, and to be regarded with other reverence. "It is a partnership in all science, a partnership in all art, a partnership in all virtue, and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership, not only between those who are living, but between those who are living, those who are dead, and those who are to be born."[1] Every borough may be likened to a partnership, the members of which are to choose their representative or procurator. As in partnerships of a few individuals for their private purposes, the nomination may be made to depend on the concurrence of every individual. Upon no other supposition are individual partners commonly bound to confirm the acts of their nominee. How, it is asked, is this universal concurrence to be brought about; how are a number of individuals to be compelled or induced to act together? By the same simple process which obliges partnerships of a few individuals to act together. They are frequently constituted under instruments which are by no means of simple construction. Astute draughtsmen have brought together for this purpose the accumulative experience of several generations, and have sought to provide, by an anterior contract, for every circumstance of trade, of life or of death, which might affect the contracting parties, or their joint or several interests. But

[1] *Burke, Reflections*, &c., p. 144.

the ultimate bond of union, stronger than their deeds or contracts, and asserting its power where all deeds and contracts are powerless, is the necessity of compromise. "How," inquired the student, after perusing the deed which had been settled for the government of a mercantile association of large capital, and consisting of several partners,—"How can they go on under a deed which prevents any partner from appointing or dismissing a cashier, or a clerk, or a warehouseman, without the consent of all the partners! Suppose they should not consent, the business might then be absolutely at a stand still." "They would dissolve the partnership," was the reply. It is thus that, with many subjects on which they think differently, the necessity of joint action compels every partner to respect the opinion of every other; and the association continues for the lives of several persons, which, if it had been founded on compulsion, would probably have ended in bringing the concern to a helpless and profitless condition, or to ruin.

"The principle," says Mr. Calhoun, "by which constitutional governments are upheld, is *compromise*, that of absolute governments is *force*."[1] By giving full, and no more than full weight to opposing and conflicting interests, a salutary check is interposed to all precipitate resolutions. "They render deliberation a matter not of choice but of necessity; they make all change a subject of compromise, which materially begets moderation: they produce temperaments preventing the sore evil of harsh, crude, unqualified reformations, and rendering all the headlong exertions of arbitrary power for ever impracticable."[2]

How, then, are those who are weaker in numbers,—those who have formed their opinions on matters concerning the public welfare, upon considerations which the majority do not enter into, or do not appreciate,—to bring about this compromise? It is plain that they cannot effect it, without the

[1] *Disquisition*, &c., p. 37. [2] Id., p. 51.

power of exercising a volition of their own. Neither reason, entreaty, nor persuasion, will be enough. When the majority feel that their will cannot be controlled, and that they may defy and despise the minorities, they will assuredly do so, and the remonstrances of the latter will become the subject of "ridicule and scorn."[1] "The highest moral obligations: truth, justice, and plighted faith,—much less prudence and propriety,—oppose, of themselves, but feeble resistance to the abuse of power."[2] The basis of union and permanence, in the ordinary partnerships by which most of the commercial transactions of the world are carried on, is the necessity of mutual attention, forbearance, and respect. If this be not rendered by one to the other, the partnership is dissolved. That it is not so dissolved, is because the feebler judgment yields to the stronger, the cautious is encouraged by the more impetuous, the more impetuous is tempered by the cautious, and each character and person derives improvement and profit from the combination. The compromise is enforced by the existence of the power in each partner, if he be dissatisfied with the conduct of the rest, to dissolve the partnership, as to himself.

The progress of physical science has advanced by observation of the laws which apply to things under our sight, and the application of the same laws to bodies of greater magnitude which are otherwise beyond our vision and comprehension. It reasons from the lesser to the greater. So in political life; an element which is potent, and preserves harmony in the smaller sections of society, may be brought to bear on its larger combinations. Let any elector or electors, whether they consist only of the "tens or twenties," to whom Lord Harrowby referred,[3] in presenting a petition from members of the learned professions, and others, as "scattered in the vast communities, and whose votes are now utterly without influence in any one place," or whether they com-

[1] *Disquisition*, &c., p. 304. [2] Id., p. 281.
[3] *Parl. Hist.*, vol. cxxii., p. 1184.

pose any of the various sections of society who look to moral, rather than to purely political doctrines; or, whatever may be their causes of dissent, be permitted, when occasion arises, to dissolve the union which the place of residence or some other accident has created between them and the other members of the constituency on which their votes are registered, and let them add their votes, if they desire, to those of some other constituency, but so as not to interfere in the smallest degree with the just weight of the majority in such other constituency. They may thus become partners with other electors with whom they have more sympathy. Eminent judges, in administering the law, have, when they looked at the losses and evils which commonly accrue to partners from suddenly and angrily severing the connection, considered the union as having some analogy to another,—for better and for worse. There is, however, no such indissoluble bond uniting together the dwellers in every borough. They may be told to be, if they can, unanimous in the choice of a representative; but if an elector cannot agree with the majority on one side of a parish boundary, there would be no necessary breach of the order, or even of the courtesies of society, if he be permitted to unite himself with a number of his fellow-countrymen on the other side. He is not precluded from choosing his friends or associates beyond the boundaries of his own borough, and there does not seem to be any sound reason why he should not be allowed, with a like freedom, to seek elsewhere his fellow-constituents. If the legal obstacles in the way of this exercise of individual volition were removed, and the elector were enabled to add his vote to the votes of any other of his countrymen, agreeing with him in sympathy and opinion, and sufficient to form a constituency, it is obvious that, so far as representation is concerned, the question as to minorities would cease, for the minorities would be absorbed. An age which has achieved the freedom of commercial intercourse in spite of the pretensions of local protection and

monopoly, may not unreasonably hope to find advocates for the free interchange and communication, as well of political action as of political thought, against the far less plausible and more insolent claims of dominant inhabitants of arbitrarily selected and privileged boroughs and districts to a monopoly of the great right of national representation.

The purpose of this work is to show how practically small in form is the change that would suffice to liberate the elector from the bonds that now tie him to the other voters of the borough in which he happens to dwell, whereby his action is absolutely fettered to theirs, however weak, ignorant, or corrupt they may be,—how perfectly such a change would be in accordance with the letter and spirit of our constitution, and how trivial are the arguments against it, when thoroughly weighed. By such means, the unrepresented minority would be reduced to the smallest limits, and include only those impracticable tempers, for whose satisfaction it is neither possible nor desirable to provide.

CHAPTER II.

OF CONSTITUENCIES BY VOLUNTARY ASSOCIATION AND UNANIMITY.

In the last chapter every constituency or electoral college has been regarded in the light of a partnership, the members of which are engaged in a great undertaking that requires all their individual as well as their joint skill and energy, and in which none should be even sleeping partners, much less partners repudiating and protesting against the acts of the rest, and yet unable to extricate themselves. It has been said that, in order to express the various opinions of those who form minorities, they should be permitted, not by dissent to impede the free action of the majority of the society or partnership with which the accidents of life, and the frame of our electoral system, has connected them; but, leaving all such free action of the majority untouched, to come out of that society or partnership, and form another society and another partnership, with the members of which they entertain opinions in common. The hypothesis, that they can thus for the time sever their connection with the constituency in which they are registered, is necessarily founded upon the assumption that they are able to find kindred opinions elsewhere than with the majority of that constituency. If such kindred opinions, held by sufficient numbers, cannot be found, the severance would be useless, and their voices, as at present, are necessarily extinguished.

The severance, it is to be observed, is only for the time. The partnership may begin and end with the election. The objections to concurrence with the majority of the constituency which are strong at one election may have no existence at the next. The very circumstance that every elector is free, will tend to procure respect for his opinions from every other elector, and will therefore be a motive for attempting the selection of a representative who shall command the general respect.

The election of a representative by a combination of minorities supposes a community of sentiment in those who combine, or, in other words, unanimity of choice in such a constituency. In order to render this arrangement possible, it is necessary to prescribe what shall be the extent or numbers of the new constituency which is thus to be created, and to ascertain in what manner its members can be enabled to coalesce.

An electoral body, formed of the detached members of various constituencies, ought to correspond in magnitude with the average of such other constituencies; and this is obtained by taking as the basis the number of votes polled at each general election.

It is proposed that a registrar of voters be appointed for each of the three kingdoms, who may not only superintend the business of local registration, but be charged with the duty of collecting and computing the number and quotient of voters, and—where votes from more than one constituency are contributed towards the election of the same candidate—the arrangement of the votes according to the names of the candidates indicated in the voting papers. At the conclusion of the poll in the several constituencies, a telegraphic despatch from every returning officer might communicate to the general registrar of the kingdom the number of voters that had polled; and these numbers being added together and the aggregate number divided by the number of

representatives to be chosen,[1] the product or quotient will be the maximum number of the constituency sufficient to secure the election of a member.

It will be convenient at this point to begin the draft of the proposed ELECTORAL LAW, with the clauses which specify the manner in which the quota or number of votes sufficient for the election of a member is to be ascertained and made known at every general election. They point out portions of the duties of the returning officers and registrars, and would fall within that part of the Treatise which describes those duties, but they are necessary in this place for the elucidation of that which follows. It may be assumed that at this stage of the election the registrars and their clerks assemble together, for a few days, at a central point—for which some town in Derbyshire, or the south of Yorkshire, may be more suitable than London.

Section I. The registrars at every general election, as soon as they shall have received the reports of the returning officers of the various constituencies in England, Scotland, and Ireland (to be transmitted to them as hereinafter mentioned), showing the number of votes polled in every constituency, shall compute and ascertain the total number of votes polled at such election, and shall divide such total number by 654, rejecting any fraction of the dividend which may appear after such division, and the number of the said quotient found by such division shall be the quota or number of votes entitling the candidates respectively, for whom such quota shall be given, to be returned at the said general election as members to serve in Parliament.

III. The registrars, as soon as practicable after the said quota has been found as aforesaid, shall make and jointly sign a declaration setting forth the total number of votes forming the aforesaid dividend, and the quotient

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[1] Instead of forming this quotient by taking the total number of votes as the dividend, the dividend may be formed by adding together only the votes polled by so many of the candidates highest on the poll as shall be sufficient to fill the House. The effect of this variation, which by diminishing the quota would be in many respects an improvement, is shown in a note to Chapter IX., in the remarks on Clause XXV. of the proposed electoral law.

of the same, and shall thereby certify that the said quotient is, by virtue of this Act, the quota of electors at the general election for the Parliament of the United Kingdom of Great Britain and Ireland (specifying the Parliament then summoned, and for which such election is made); and shall also, with all practicable speed, transmit a copy of such certificate to every returning officer, and cause the same to be published in the London, Edinburgh, and Dublin Gazettes, respectively.[1]

The registries of the United Kingdom contained, in the year 1857, the names of 1,227,274 voters. This may afford a datum for estimating a probable quotient. When the sympathies of all who are disposed to employ any measure of thought on political duties shall be so strongly appealed to, the number of voters exercising their franchise will doubtless exceed anything we have hitherto known. Still the votes polled will fall considerably short of the votes registered. To explain the calculation, the voters who poll at a general election, under this system, are supposed to be equal to the number on the registry in 1857, and this total is supposed to be divided by 654, the number of members in the House,[2] and the quotient is 1876. The quotient necessarily varies as the numbers of the voters vary, and the quotient, so varying, will be always the number of voters, who, belonging to what constituencies they may, but being unanimous in their choice, may be permitted to elect a representative.

The difficulties which will immediately suggest themselves are,—how this unanimity is to be obtained amongst persons of infinite variety of character and temperament, and how a scheme of such a nature is to be worked out? Doubtless, if there were but one or two, or a few of these bodies of 1876 voters, or whatever may be from time to time the number of the quota, it would be impossible to secure unanimity; but the difficulty vanishes when the minorities amount to half a

[1] The above laws, I. and III., are substituted for laws I., II., and III. in the first edition.

[2] It has since been restored to 658, but it is not necessary to alter the original calculation.

million, and not only half a million, but when they far exceed the entire number of any minorities now existing, by the operation of numberless affinities and repulsions, which, in a state of liberation, will dissolve the present majorities. Opinions which approve themselves, and sympathies which are common to any considerable number of minds,—and it is chiefly these with which we have to deal,—will form round different centres, whilst the parts, or atoms, actually incapable of cohesion, would be reduced to their minimum.

It will be found, upon consideration, that it is not more difficult for the State to provide for its people the means of combining, for the purpose of representation, all the elements which make up its intelligence and judgment, infinitely dispersed and varied as these appear to be,—than it is by the simple mechanism of the Post-Office, that vast contrivance, at once a cause and an effect of civilization, to perform its wondrous daily task of interchanging knowledge and thought, and thereby instructing and enriching society. In our own day, the facilities of intercourse have brought almost into contact with one another those who dwell at opposite quarters of the empire, and have produced effects which our ancestors could never have anticipated or imagined. Full of interest are those inquiries, which show the connection between external things and mental progress, and trace the influence on human institutions, of literature and its allied and handmaid arts. The amazement of Atahualpa, when he saw that a few mysterious lines, without speech, conveyed, from one to another of his stern conquerors, their words and thoughts, exhibits the untaught condition of a perishing race. In other regions, and more cultivated minds, letters had long sown the seeds of enterprise and freedom, but had not always preserved its fruits. They afforded to the world but a twilight gleam. The brighter rays shone but in a few solitary or isolated spots, until a student-artisan taught to stamp by one block or type many repetitions of the same thought, and

thereby opened wide the doors of knowledge. It remains, still, instead of the signs by voice and hand,—the means of expression in the rude assemblies of old, in which writing was an unusual accomplishment even for the noble, to substitute the vehicle of letters, and by them to transport and concentrate, in the choice of legislators, the stores of wisdom and virtue that are scattered throughout the land, extracting them, like the precious ore from quartz or sand, by the powerful sympathies and affections which God has implanted in our nature, and which it is for man either to let die, or call into healthy or baneful luxuriance. In gathering the electoral will, we seek for the expression of every thoughtful and earnest mind, and of all pure, lofty, and patriotic resolves,—

"Warm from the soul, and faithful to its fires."

In the following pages it will be shown that this is no vain hope, and that, to render the exercise of the parliamentary franchise an act in which the highest moral and intellectual power of every elector may be excited and employed, is no impracticable attempt.

In treating of the representation of minorities, on a principle of unanimity amongst those who are so represented, it will be observed that the course proposed is very different from, and almost the opposite to, that suggested in the address presented to Lord Palmerston, towards the end of the year 1857, on the subject of making an educational franchise a part of the anticipated Reform Bill. The address was entitled to high respect, as bearing the signature of many eminent men; but it is believed that the greater number of those who signed it, intended to express nothing more than their adherence to the principle of giving a just weight to education, and that they did not intend to intimate any adoption of, or preference for, the details of the scheme adverted to in the address. The form in which it was proposed that the educa-

tional franchise should be conferred was, indeed, unfortunate; and, perhaps, in that respect, a great cause was never more unhappily marred by injudicious advocacy. An educational franchise must be considered in two phases,—first, the suffrage; secondly, the combinations to give effect to the suffrage. The justice of the claim of suffrage on the ground of scientific and literary distinction,—not for any special advantage to those who claim it, but that the people at large may have the aid of all contemporary knowledge in the business of their government,—will be adverted to in a subsequent chapter. The electoral combinations for giving effect to the suffrage, appear to have been the main subject of the address; and these, it was proposed, should be territorial, to avoid, as it was said, the danger of subjecting them to the influences of any particular class or profession. The apprehension that the learned bodies, if left to themselves, unfettered by territorial limitations, might make an improper choice, or, perhaps, submit to sinister influences, evinced less confidence than might have been expected in the discretion of those whose claim rested on the ground that they were more discreet than the general members of constituencies of which they formed a part. But the very apprehension was, in truth, one of little depth. If one of any of the learned professions were chosen by the members of his profession, he would, probably, be amongst the most distinguished of their number; and he who is a master in one science, as a general rule, approaches with more care and circumspection those departments of knowledge which he has not made his study than the man whose mind has never received any such special direction. Profound knowledge of one branch of science is no unfit preparation for the study of others, whilst it is a guard against that superficiality which is the bane of political discussion.

Passing from the reason assigned for the arrangement, to the territorial constitution which was proposed, it is difficult

to avoid the conclusion that a division of electors throughout the kingdom into two classes, the learned and the unlearned, would place the classes which assumed the pre-eminence in a position impossible to be maintained. An institution which might too often have the misfortune of exhibiting to mankind the practical distinction between learning and wisdom, would be little calculated to promote either. It would be always exposed to the most powerful engine of assault which can exist in a civilised age,—that of ridicule. It is not, however, on such objections that it is useful here to dwell. A territorial arrangement must operate by majorities. But the circumstance that the educated classes formed the minorities in the detached constituencies, was the cause of the application for a separate representation; and yet the minorities of the electors, thus permitted to sever themselves from the majorities, would, in their turn, be extinguished; and the very inconvenience which led to the severance would, at the utmost, be but little more than half cured. Indeed, if the educated classes to be thus formed into distinct territorial constituencies, should be composed of men of independent minds, taking their own distinct and varied views of public affairs, and determined to act for themselves, instead of being led by a few of their number,—they would be likely to bring forward more candidates than appear in a borough in which differences are suppressed. This would be the natural tendency of a highly-instructed constituency; and in such an event, it might happen that a small part of the aggregate number of the educated electors within the territorial division would impose their views upon the rest.

The adoption of the principle that a quota of electors, by unanimity in their choice, may return a representative, would, with the aid of other arrangements of a mechanical kind, and of no difficulty, enable every individual elector,—who shall consider the choice that the majority of the constituency in which he happens to be registered is disposed to make, as the

result of corruption or of intrigue to which he will not lend himself, or who shall entertain opinions with which those of their favourite candidate do not harmonise, or who shall consider that a better or a wiser selection can be made, and that with such a belief it is his duty to make it,—to exercise his vote according to his own judgment. The principle might be embodied in and made effectual by the following law:—

IV. Every candidate, whose name is contained in the list of candidates hereinafter mentioned, for whom the full quota of votes shall be polled (subject to any qualification or disqualification otherwise imposed by law), shall be returned as a member to serve in Parliament, in manner hereinafter mentioned.

It will, of course, be immediately perceived, that this law would have consequences far more extensive even than the admission of the voices and opinions of an aggregate of minorities, numbering half a million of electors, great as those consequences would be. The admission and concentration of all those whom the numerical majorities, when dominant, exclude, in truth involves the representation of all opinions. It is because the simple expression of the numerical majority, under a system of equality in suffrage and district, would deprive all classes, except the most numerous, of any weight in the House of Commons, that the framers of our representative system exhaust themselves in ingenious contrivances to parcel the electors into such divisions that some may neutralise others, and thus reduce to its minimum the evil which they apprehend. More than to diminish the evil effects which must result from the extinction of all political power, except that of the poorer classes, they seem scarcely to hope. The object should rather be, to exclude no legitimate influences, and to give such a scope and direction to all political energy, that every elector, in his sphere, and according to his knowledge, may labour to obtain the maximum of good. If every elector be made to see and feel that he is personally respon-

sible for what he does, what he attempts, or what he omits to do, something will be done, at least, to make him deliberate before he acts; and when a man begins seriously to reflect on what he is to do, much is already gained.

The same machinery which permits the minorities in every constituency to exercise their franchise, by uniting their votes with those of others wherever they find sympathy, will also accomplish other objects, of no less importance. It will permit all the smaller boroughs and constituencies, or any portion of them, to form similar unions, and will put an end to all questions of disfranchisement; and it will, moreover, afford to every class, and every interest, in the country, the means of being adequately represented in the Legislature.

The subject of the representation of counties, cities, and boroughs, will be considered in subsequent chapters.[1] On the representation of distinct classes and interests, something may be said in this place.

All those who deem it of paramount importance that the great interests of the country should be adequately represented,—whatever their different views may be as to those interests being homogeneous or antagonistic,—should seriously address themselves to the consideration whether there is any geographical distribution of seats which can hereafter, with anything approaching to accuracy, or with a probability of duration, procure for any distinct interest an effectual representation; a representation which, if it be obtained at all, will not be overwhelmed by a majority of representatives from other adverse—or, at least, unsympathetic—constituencies. In examining this question, they should consider, not only the present parliamentary system, but what it is likely to become in the progress of events, which, even if amongst us it went no further than the operation of existing causes, will increase the electoral body under the present law, by adding to the lower and less instructed voters, in a far greater propor-

[1] Ch. III., IV., and X.

tion than to the classes who have greater opportunities of knowledge, and more leisure for thought. They might then usefully proceed to consider whether any machinery exists, or has been proposed to them, which can so effectually secure the protection of every interest, as by giving to those who are attached to every species of property and industry the power of voluntary association. The distinctive interests commonly regarded as the broadest, are those of the landed and commercial classes. The county constituencies were supposed to be the strongholds of the former, and the borough constituencies of the latter. The ulterior view of the general subject of representation—by which the county franchise is regarded as intended to provide, not so much for the representation of the inhabitants of the counties, or of places not within the limits of boroughs, as for the purpose of giving weight to the landed and agricultural interest, has shorn the county population of two-thirds of its political weight. The hypothesis that the county electors did not represent themselves, but were the agents, or retainers, of the landowners, has placed them in such a position of inferiority as to give to 66,000 electors in the county no more weight in the State than 22,000 electors in a borough.[1] In the last chapter, mention has been made of the social changes which have opened the country to the population of the towns, and of the amount of the intelligence and wealth which has thus been transferred from the cities and boroughs to the counties. If, in pursuit of the fancied, but most mistaken, interests of the landowners, the attempt to keep up the geographical distinction between the representation of the boroughs and counties be obstinately persevered in, and be successful, the electoral

[1] In an article in *Fraser's Magazine*, in April 1860, entitled "Representation of every Locality and Intelligence," I have gathered from a valuable paper by Mr. Newmarch, a summary of the Statistics showing this disparity. In counties each member represents also £730,000 of annual income; in the boroughs there is a member to every £280,000.—*Fraser's Magazine*, 1860, p. 540.

elements that might be derived from a population which thus partakes both of the rural and the urban character,—elements not surpassed in value by that of any class in the country,—would be, for the most part, sacrificed. They would be lost to the boroughs, and not gained by the counties. To secure, or preserve, a selfish and an invidious power—which, after all, will escape their grasp,—the landowners, if they were betrayed into such a course, would have excluded from the representation a conservative force of great value, daily augmented in strength and importance, and to the growth of which there is no conceivable limit.

The more extensive, the more numerous and varied the ramifications of any interest, the less should it trust, and the less does it need to trust, to any geographical limitations, and the more may it safely rely on its inherent strength. The landed interest under a free system could not be dependent on the county constituencies. It has its branches in every city and borough in the kingdom. Its interests are identified with those of large numbers of the inhabitants of London. Not only in Belgravia, or Tyburnia, or May-fair, but with the clergy, the lawyers, with Westminster, with Finsbury, with many of the professional classes, the wealthy manufacturers, the principal merchants, the chief tradesmen. Again, in the census of 1851, about 300,000 persons are returned as farmers, nearly all of whom would probably be voters under a system which recognised their equality with the voters in the boroughs. The numbers who reside in cities and boroughs, and who have connections and interests with the same great class, are incalculable by any data which these tables afford, but their numbers must be enormous. In the place of a fatal policy, which seeks—through geographical limits and arbitrary distinctions, by unequal apportionments of political power, and by creating or adhering to unreasonable and invidious inequalities of capacity and franchise,—to secure some remnants of their preponderance, the landowners and

the agricultural interest might safely rely, under a free and equal system of representation, on the elements of their just, and legitimate, and unquestionable strength. A distribution of electoral bodies, which would give to every voter the power of adding his vote to those of other electors, with whom he might more perfectly agree in interest and opinion, would, it may be safely predicated, give to the agricultural interest a weight and influence greater than can be attained by the most ingeniously-constructed territorial system they can devise. It would be a weight and influence obtained without any sacrifice of the claims of others. In principle and practice it would be perfectly unassailable, inasmuch as it would be determined, like that of all other bodies, by the measure of the numbers, intelligence, and property which it comprehends.

A similar reasoning will apply to every other class of interest, great or small. The various manufacturing, the mining, the shipping interests, might severally be the framers of their own constituencies, and be thoroughly and satisfactorily represented in the national councils. The population of the manufacturing, commercial, or maritime towns, in which the operations of any of these departments of industry are chiefly carried on, is too miscellaneous to be the organ of any common principle having relation to such special interests. There might have been a time when Norwich or Exeter was ready to advocate, above all others, the real or supposed interests of the woollen, and Newcastle or Liverpool those of the shipping trades; but these times have passed. In the present century, although especial interests may accidentally obtain an exponent of their views in the persons of some of their body who have chanced to find their way into the House, they cannot generally obtain any such representation except by tampering with and corrupting the voters of limited constituencies. No interest, in truth, is provided with any proper or legitimate means of securing at all times its due weight and representation in the legislature. The

possession of such weight, or the existence of such representation, are matters left to the determination of chance or accident. This is surely not a basis on which a great representative system should rest.

Another interest remains—and which, not less than any, if not more than all, deserves consideration—the interest of the working classes. To the honour of the age be it said, that the history of the world does not present a time in which the labours of the wise, the great, and the wealthy, were directed with more persevering energy to promote the social benefit of the great masses who are engaged in the manual occupations of life. Some there are in the House of Commons who address themselves to such questions in the spirit of an enlightened philanthropy. But neither science nor philanthropy can reach the depths of the knowledge painfully won in the daily life and experience of the man or woman. It is unnecessary to advert to the cases in which the doctrines of political economy and considerations of morality and duty, when their several provinces are not sufficiently distinguished, seem to conflict. "The want," says the economist, "will produce the supply." "What," replies the moralist, "if the want be not felt, but is yet one which it is a proof of the degradation of our nature not to feel? The wants which tend to produce a supply are of two kinds—instinctive and artificial. The former seeks after that, a desire of which has been implanted in us by nature,—the latter, after that which we have been taught to desire by experience. The light must enter into the darkness, ere the darkness can know that is without light, and open its heart to desire and embrace it."[1] The questions in which the working, or, as it has been proposed to call them, the wage classes, are deeply interested, become daily more and more developed, as the increase of the population and the progress of material wealth and civilizing influences render the condition of society more complicated.

[1] *Guesses at Truth*, 2nd series, p. 351.

New subjects for consideration incessantly arise. Legislation has dealt at different times more or less superficially and partially with the hours of female and infantine labour, the education of children, the application of endowments for the aid or relief of poverty; the imposition of public taxes to avert destitution; with sanitary necessities, with friendly societies, and the investment of savings; and there is still probably none of these subjects on which the existing legislation is not capable of great amendment. The laws that govern the tenure and conveyance of interests of smaller value in real property, especially of cottages, and of the dwellings of the labouring classes in towns, require extensive modification and improvement; and open a large field of civil reformation, in which the wealthier proprietors may have no sympathy, even if it be not altogether opposed to their prejudices. There is much that touches the condition of the poorer classes which persons in a different social sphere can hardly feel or know. Subjects of still deeper permanent importance appear in the distance. The progress of the co-operative movement is likely to affect extensively the condition of labour, and the relations between the employer and the employed. A consideration of what is due to the vast masses of the working population leads inevitably to the conclusion that they ought to have the power of placing in the House some persons in whom they have confidence, and who are able to view all such questions from *their* side, who have been brought up with them, and know experimentally where and how their condition needs amelioration. A representative assembly of the Commons, without this element, is grossly defective.

Nothing exemplifies more clearly the maxim, that all injustice rebounds upon its authors, than the claims of the working classes for representation in times of popular excitement. Their class having been unwisely and improperly excluded, they then demand such a construction of the fran-

chise, and of electoral divisions, as will tend to throw all power into their hands, every class but their own being numerically overpowered. It may be hoped that the friends of good government will avail themselves of a period of tranquillity to place the representation on such a basis of justice as shall make it thenceforth unassailable.

In the state of society at which we have arrived, the vesting in every elector of a power to act, if such be his will, without any trammel created by the particular section of voters to which he is nominally annexed, is the keystone of parliamentary reform. It is by this means that the utmost facility and inducement will be afforded to every elector to exercise his judgment in making the best and wisest choice. "That the service of our country is no chimerical, but a real duty," are the words of a great constitutional philosopher. When a political system promotes and encourages the association of minds having common pursuits and common sympathies, and when these associations are necessarily so extensive that they can be governed by no narrow or selfish motives, and by nothing less comprehensive than a desire to further the moral or material welfare of large numbers of men, the union becomes necessarily the occasion of exciting generous sentiments, and to the degree in which the object of the association is pure and wise, to that degree are its members elevated above all ignoble and selfish objects. All good influences will be aided and all evil ones discouraged, not as results directly aimed at, but as the indirect and natural consequence of a wholesome state of political existence; just as the cultivation of a pure mind, and application to honest objects, is a better protection for virtue than all the repressive laws that can be made to extirpate vice. Full scope will be given to every generous sentiment by which men may be drawn together. Devotion to a great principle—regard for an illustrious name—affection for an ancient house—admiration of worthy deeds—attachment to a particular neighbourhood—

love of country or of class—community of feeling—harmony of taste—may all form so many occasions of concord, and create innumerable circles, binding together in society all varieties of rank and station, with an attraction of such power that malignant influences will find no place, and the occupation of the demagogue will be gone. Inclination will thus be brought to the aid of duty. When no elector can, by the reflection that any exertion on his part would be vain, if not mischievous, as injuring the cause he desires to support, excuse his inaction to his conscience, he will then be sensible of the obligation which the service of his country imposes upon him. It is beyond the power of law to compel men to unite for a common purpose, and labour in it with energy of will, unless it be one in which their nature prompts them to agree. An electoral body, composed of the most heterogeneous and antagonistic materials, bound together by law, and told that they must act together, and find one person who can reflect the most dissimilar things, can be compared to nothing better than the melancholy spectacle of subdued and torpid natures, which is sometimes exhibited by the animal showman, in a cage, in the streets. With equal truth, or irony, one is called the "happy family," where every instinct is quelled; and the other the "independent constituency," where every man's action depends, not upon himself, but in most cases on those to whom, of all others, he would be least willing to trust either his honour or his purse. The indifference of hopelessness, and the languor of debility, are occasionally varied by fits of spasmodic animation when they are roused by those who extract a miserable profit from the exhibition. Is it too much to say, that instead of on one side constructing schemes which shall perpetuate a stereotyped expression of political sentiment, and, on another, contriving how it may be counteracted, by secret voting that may shroud every elector in a veil of obscurity, statesmen might more wisely employ themselves in discovering, in that great laboratory of science in which we find all we

know of man's nature and of the elements of his moral health, the means of dissipating the unwholesome miasma, and clearing the tainted atmosphere which now envelop political life?

The two following chapters will explain the position in which majorities would be placed, in relation with unanimous constituencies—the respective provinces of the two principles, and their essential harmony.

CHAPTER III.

GEOGRAPHICAL, LOCAL, AND CORPORATE DIVISIONS OF ELECTORS.

In the ancient and historical form of our constitutional system, the right, or privilege of nominating representatives in Parliament, was given,—or, it may be more correct to say, accrued—to the various detached and distinct communities in the then existing divisions of counties, cities, or boroughs, in consequence and as an incident of that previous existence. In the remodelling of the electoral system in 1832, a course in many respects the reverse of this was pursued. Districts, or boroughs, were then created, or unions of such communities formed, without any other basis of connection than that of electing representatives. The representation was not given to the town simply because it was a town containing inhabitants who ought to be represented, for the Reform Bill recognised no such right; but the borough was created, or its limits extended to the surrounding parishes,—a union of boroughs formed,—or counties divided into sections, in order to create an artificial basis of representation. We are now, it may be hoped, unembarrassed by many of the difficulties which impeded the labours of 1832, and enabled to view the entire subject in different aspects. The experience of a quarter of a century does not encourage the extension of a system of arbitrary divisions, constructed entirely for electoral purposes. A representative system, resting on such a basis,

can scarcely be otherwise than a source of discord. It is without landmarks. It has not its origin in that stream of events which has disposed material things in an order wherein all are the more inclined to acquiesce because they have not seen it disturbed or controlled by any visible hand. The example of other countries, as well as of our own, teaches us that, if an arbitrary division for electoral or other purposes is formed to-day, there will not be wanting reasons for its reconstruction to-morrow. On the other hand, these political incorporations which grow out of the constantly operating causes by which all human associations, like material things, are dissolved and reorganised, are found to have the deepest roots. "By preserving the method of nature in the conduct of the State, in what we improve, we are never wholly new; in what we retain, we are never wholly obsolete. By adhering in this manner, and on those principles, to our forefathers, we are guided, not by the superstition of antiquarians, but by the spirit of philosophic analogy."[1] "Our political system is placed in a just correspondence and symmetry with the order of the world, and with the mode of existence decreed to a permanent body composed of transitory parts, wherein, by the disposition of a stupendous wisdom, moulding together the great mysterious incorporation of the human race, the whole at one time is never old, or middle-aged, or young, but in a condition of unchangeable constancy,—moves on through the varied tenor of perpetual decay, fall, renovation, and progression."[2]

The people of this country have always evinced great reluctance to be arbitrarily parcelled out, formed into sections, and divided by metes and bounds, to correspond with a theory, and they have commonly cast aside, at the first opportunity, such artificial limits. The advocates of equal electoral divisions, who look to a new geographical distribution as the only means of accomplishing their object, will have to surmount

[1] *Burke, Reflections*, &c., p. 49. [2] Id., p. 48.

great prejudices before they succeed in dividing the country like a chess-board. Many of these prejudices are deeply rooted in historical causes, and deserve the respect, rather than the contempt, of the legislator. "To be attached to the sub-division,—to love the little platoon we belong to in society, is the first principle,—the germ, as it were, of public affections. It is the first link in the series by which we proceed towards a love to our country and to mankind." "We begin our public affections in our families. No cold relation is a zealous citizen. We pass on to our neighbourhoods, and our habitual provincial connections. These are inns and resting-places; such divisions of our country as have been formed by habit, and not by a sudden jerk of authority, are so many little images of the great country in which the heart finds something which it can fill. The love to the whole is not extinguished by this subordinate partiality. Perhaps it is a sort of elemental training to those higher and more large regards, by which alone men come to be affected, as with their own concern, in the prosperity of a kingdom." "But no man ever was attached by a sense of pride, partiality, or real affection, to a description of square measurement. He will never glory in belonging to the Chequer, No. 71, or to any other badge ticket."[1] Few, probably, have been known to manifest any degree of pride from their political incorporation with Marylebone, Finsbury, or any other arbitrary metropolitan section.

The glaring anomalies and inconsistencies of a system which enables a great number of the members of the House of Commons to be elected by towns insignificant in wealth and population when compared with other places, often in their immediate neighbourhood, which are without such powers—a system which cannot now be defended on the grounds which were formerly urged in its support—renders some extensive alteration indispensable, if the representation

[1] Id., p. 290.

is to be placed on a rational or satisfactory basis. It has been a common thing for the representatives of such places, and the advocates of the system under which they hold their privileges, to refer to the smaller boroughs, as favourably contrasted with the metropolitan and other larger constituencies, by the more independent tone which their members are able to assume. Those who know they are indebted for their seats to influences which personally affect themselves and the electors, and in which any public principles enter but in a very small degree, are of course more free in their public conduct. They know that they have other securities for their seats than a servile adoption of any popular cry. The preservation of the last remnant of political independence in France, in the early part of the eighteenth century, was the vested interest of the principal members of the provincial parliaments in their offices, and which was due to such offices being vendible, and therefore partaking of the security of individual property. It is stated to have been once somewhat coarsely said by an independent member—that what he had bought he would also sell. It must be allowed, however, that so far as regards the national interests, even the effects of this independence are often to be preferred to the slavish subserviency of the delegate of some of the more numerous electoral divisions.

In order to raise the more populous of the unrepresented and inadequately represented towns to their just position, two plans have been suggested—first, the combination of several of the smaller boroughs into single electoral districts, or as it is called, the formation of groups of contributory boroughs; and, secondly, and which with many writers seems to be the favourite course, the disfranchisement of many of the smaller towns at present represented. The latter course, the disfranchisement of boroughs at present in the possession of the electoral privilege, all forming parts of the great body of the people, in their degree equally valuable and necessary to the

national life, in order to render the representation of that body more perfect, would appear to be a strange kind of progress towards the political perfection at which reformers profess to aim. You have, by your artificial restraints, prevented the blood from freely circulating, and caused in one part of the body a diseased or unhealthy action—and the remedy of these physicians is, to amputate the limb! Surely, instead of this mutilation, instead of leaving the body politic a maimed, a disfigured, and dismembered frame, the physician of the State should rather seek to restore and give strength and vigour to that free circulation, to the want of which the peccant humours owe their origin.

In favour of the formation of groups of contributory boroughs, there is much more to be said. The consideration of this subject is reserved to the next chapter, which treats of the method by which the electors of small towns or districts may contribute with other electors to form a constituency. For the present it is sufficient to suggest the question, whether the advocates of the system of contributory boroughs connected together by reason of their contiguity, and acting by the aggregate majority of their electors, have satisfied themselves that it is impossible to leave the question of incorporation to the voluntary choice of the individual electors? This impossibility should, in common justice, be proved, before any group is permanently incorporated without any regard to the will of the electors, from time to time, within it. It must be asked,—what insurmountable necessity arises from the circumstance that the town A. is half a dozen miles, or an hour's ride, from the town B., that the towns A. and B. must necessarily agree together in the choice of a representative; whilst it is at least equally possible that there may be less sympathy between many of the electors of A. and the electors of B. than between them and others in distant towns, or in the metropolis? If the accident of geographical propinquity, or any other

cause, creates this necessity,—whether for moral or physical reasons,—it must be submitted to; but if there be no moral or physical necessity for such a combination, it certainly cannot be the duty of a wise legislator artificially to create it. It is not his province to raise legal or technical obstacles, having no foundation in natural causes, to the free action of mankind.

Nothing is more remarkable in the early history of this country than the disposition to form guilds and associations. Our archives contain records of these forms of political existence. The association produced strength. It was the threefold cord which withstood oppression, and was too stubborn to be easily broken. These societies became an offence to arbitrary princes. Sir Francis Palgrave has remarked, that so early as the reign of Richard the Second, when that monarch was asked by the Commons to restrain alienations of land to ecclesiastics, he went still further than the petition demanded, and extended the restriction to lay guilds and fraternities. The king, he observes, was jealous of the strength and independence of such voluntary bodies, and they were ordered to make returns into Chancery of their regulations and bye-laws. He says, that there are now in the Tower a great number of these returns, and that the Statute of Mortmain, of the 15th of Richard II. (cap. 5), was intended to hold in check the guilds and corporations,—which included all the ancient trading companies,—who were acquiring that political influence which not long afterwards deprived the king of his crown.[1]

In later times, the guilds and fraternities assumed a mixed character, and became partly civil and partly ecclesiastical. They sought to combine the objects of mutual assistance and support in temporal necessities with the consolations of religion. If the rolls of some of these city fraternities were perused, they would astonish many who regard the want of

[1] *Evid. Report on Mortmain*, July 1844, p. 10. *Lucas, Secularia*, pp. 18, 19.

sympathy between different classes, at this day, as a necessary state of things. In them, high and noble names are combined, in one society, with the citizen and the artificer. They afford examples of the manner in which the claims of the great brotherhood of humanity were understood by many of the proudest of other days. The property of many of these bodies, which had always been looked upon with favour by the Crown, was brought within the Acts which gave to the king the property of other fraternities at the Reformation; but it was, probably, felt to be of a secular character, and much of it was granted either freely, or on easy terms, to several of the London parishes which now hold it. All these are proofs of the prevalent spirit of association. This spirit has taken a different direction, according to the hue of the age. It was the same spirit which led the larger communities, the cities and boroughs, to solicit and obtain incorporation, and its attendant powers. It has been always active amongst us, from that time to the present. Witness the great undertakings which have been accomplished by the combination of individual power, without other aid from the State than that which sanctions and adopts the proceeding. Nothing has been too great, or too small, to be beyond its reach—from making a road leading only to a poor hamlet, to gaining, in other realms, an imperial dominion, which the proudest conqueror might have envied.

It is to this voluntary and natural disposition to associate, to which full scope should be given in forming our electoral divisions. It is thus that, when we amend, we build in the old style. If this be permitted, the huge agglomerations of voters combined in some modern boroughs, the wide expanse of acres added to some ancient ones, and the legal bonds by which many boroughs, having otherwise no connexion with each other, are tied together, will be gradually dissolved; and the communities will assume, without any legislative interference, their natural and convenient form. It has been

pertinently asked,—"Why Islington, with its hundred thousand inhabitants, should covet a junction with Saffron-hill and Hatton-garden, Ely-rents, or Glasshouse-yard?—why Bloomsbury and Lincoln's-inn should court the alliance of Clerkenwell, or Clerkenwell hang on to Finsbury?" The electoral amendment which would be most in accordance with the historical forms of social progress in this country, would be that which would enable every locality, every community, and every great or ancient association having a distinct corporate existence, and the ordinary conditions that imply permanency, to form a constituency, or electoral nucleus, capable of being represented in Parliament. It will be only necessary to provide, by a general law, that the relative weight of every new constituency in the representative assembly shall be precisely that of its relative magnitude and importance.

In the mode of effecting,—in the construction of the representative branch of our constitution,—such necessary amendments as are from time to time called for by the expanding force of population, wealth, and social changes, every step should have a reference to, and connection with, the other branches of that constitution. It should flow naturally from, and be consonant with, a monarchical form of government. Upon this point it is useful again to listen to the authority so often cited in these pages.

"Mr. Burke was represented as arguing in a manner which implied that the British constitution could not be defended, but by abusing all republics, ancient and modern. He said nothing to give the least ground for such a censure. He never abused all republics. He has never professed himself a friend or an enemy to republics or monarchies in the abstract. He thought that the circumstances and habits of every country, which it is always perilous, and productive of the greatest calamities, to force, are to decide upon the form of its government. There is nothing in his nature, his temper, or his faculties, which should make him an enemy to any

republic, modern or ancient. Far from it. He has studied the form and spirit of republics very early in life; he has studied them with great attention, and with a mind undisturbed by affection or prejudice. He is indeed convinced that the science of government would be poorly cultivated without that study. But the result in his mind from that investigation has been and is, that neither England nor France, without infinite detriment to them, as well in the event as in the experiment, could be brought into a republican form; but that everything republican, which can be introduced with safety into either of them, must be built upon a monarchy; built upon a real, not a nominal monarchy, *as its essential basis;* that all such institutions, whether aristocratic or democratic, must originate from the Crown, and in all their proceedings must refer to it; that by the energy of that mainspring alone those republican parts must be set in action, and from thence must derive their whole legal effect (as amongst us they actually do), or the whole will fall into confusion. These republican members have no other point but the Crown in which they can possibly unite. This is the opinion expressed in Mr. Burke's book. He has never varied in that opinion since he came to years of discretion."[1]

It is through the constant exercise of the authority of the Crown, to the prerogative of which it belongs to confer corporate powers—that the creation of electoral bodies can most effectually keep pace with the rapidity of internal changes. The census of 1851 is, in many places, no guide to the state of the country, or of its population in 1858. It is only in the localities where these alterations in the face of society, and in the condition of the neighbourhood, are actually going on, that their extent can be fully appreciated. It is from the people who are themselves affected by such alterations, that any application for separate or local incorporation should emanate. It is not the business of a central power to

[1] *Appeal from the New to the Old Whigs*, p. 46. 3rd ed. 1791.

initiate, on their behalf, the proceedings necessary to obtain a new constitution. It would be, moreover, highly inconvenient, that the Parliament should be required to interpose its powers on every occasion. The principle by which such local divisions are to be constituted, separated, or reconstructed, should be settled once for all, and then applied through the constitutional exercise of the royal prerogative, as the established laws are administered through the judicial authority of the Crown.

A law under which new electoral divisions might be formed, as occasion should require, is suggested in the following outline of the fifth clause of the proposed electoral law:—

V. Any borough, and any parish or district or division of a parish or other parochial division, and any ward or other division of a city, town, or borough, and any hundred, wapentake, or other division of a county, and any body, college, or society incorporate, may, in pursuance of a resolution agreed to by a majority of the electors in such community, at a meeting convened and held after due notice, apply to her Majesty in Council, by petition, signed by the chairman of such meeting, praying that such borough, parish, division, or body, may be empowered to return a member to represent the same in Parliament, and that a writ for such purpose may be issued accordingly at future general elections; and such petition shall state who it is proposed shall be the returning officer, and where it is proposed that such election shall take place, and what hall or public building it is proposed to provide for the same, and the situation of the other polling-places, if any, which it is proposed to provide, and in what manner it is proposed that the expenses of such elections, and of the registration and record of voters, and other the incidental expenses of such separate representation shall be borne; and upon the hearing of the said petition, of which not less than three months' notice shall be given in the London, Edinburgh, and Dublin Gazettes respectively; and also upon the hearing of any person or persons, who may apply and be admitted to be heard in opposition to the petition, under such regulations as shall be made in that behalf,—if it shall appear to Her Majesty in Council to be proper to accede to the prayer of the petition, and to grant to such borough, parish, division, or body, a charter of incorporation (if the same be not already incorporated), it shall be lawful for Her Majesty in Council to order that at all future general elections a writ shall be issued for the summoning of such borough, parish, division, or body, to return a member to serve in Parliament, and to prescribe who shall be the returning officer, and any other special rules which may appear to be necessary for the due exercise of such powers; and the said borough, parish, division, or body

shall thereupon be empowered to make such return accordingly; but no such order shall confer any right of suffrage on any person who would not, by the general laws affecting the suffrage, be entitled to the same; and a copy of the petition, and of any counter-petition, and of the order made thereupon, shall, within three months after the making thereof, respectively, be laid before Parliament if then sitting, or if not, within the same time after the commencement of their ensuing session.

In explanation of the foregoing clause, it will be observed, that—

It leaves the initiative of all proceedings to obtain a separate representation, to the local or provincial divisions or corporate bodies, themselves.

It must be taken in connection with the clause,—the principal subject of the ensuing chapter,—which would equalise the number of electors necessary for all constituencies, and give to all their due and appropriate weight, and it would not, therefore, affect the number of members.

It does not confer on any person the suffrage, but assumes the right of suffrage, in every case, to be previously settled by law.

It is also assumed, that, in acting under this power, rules for the guidance of the proceedings would be prescribed by an Order in Council, and that they would be such as would guard against any decision upon an application, on which every party really interested had not been heard. The Council, it is assumed, would consider the circumstances of the locality, or of the body making the application; the extent to which the objects of any incorporated institution, which might so apply, were of a public character; competency to provide for the distinct expenses of the registrations, elections, and returns, which would be cast upon them; and generally, whether any public or national object, or any advantage affecting any considerable class or section, would be gained by acceding to the prayer of the petition. The bias would, probably, be to confer the power of making a distinct return, where it is desired by any sufficient body of electors, and

where it could be granted without prejudice to others. The Council would lay before Parliament their rules of proceeding, the applications made to them, and the decisions thereon, with the grounds of such decisions. In administering this law, the Council would have the aid of, and would safely be guided by, public opinion, as it might be elicited by any discussion of their proceedings. The question would always be one purely of an administrative character, not affecting any political party, and one in which party feelings could hardly enter.

A corresponding provision should be made for relieving any constituency, local or corporate, of the necessity of making a separate return,—and thereby exonerating them from the additional charges which it would occasion,—upon a petition to her Majesty in Council, setting forth the decay or diminution of the numbers of such constituency, or other sufficient cause.

A self-acting law, of the kind which has been proposed, or some other of an equivalent effect, is absolutely necessary to provide for the fluctuations that are a consequence of the immense activity of modern life, unless Parliament is to be constantly engaged in the labour, and embarrassed by the jealousies, of a reformation of its own constitution.[1]

[1] In a note to the pamphlet in which the scheme of personal representation was first rudely suggested, the author referred to upwards of a hundred English towns, every one of which contained at the last census more than 4000 inhabitants. They were: *Bedfordshire*—Leighton-Buzzard, Luton *Berks*—Newbury. *Cambridgeshire*—Ely, March, Whittlesea. *Cheshire*—Altringham, Birkenhead, Congleton, Crewe, Nantwich, Runcorn, Tranmere. *Cornwall*—Camborne, Falmouth, Penzance, Redruth. *Cumberland*—Maryport, Penrith, Wigton, Workington. *Derbyshire*—Belper, Chesterfield. *Devon* Bideford, Brixham, Exmouth, Teignmouth, Torquay. *Durham*—Barnard Castle, Bishop Auckland, Darlington, Hartlepool. *Essex*—Barking, Chelmsford, Halstead, Stratford. *Hampshire*—Cowes, Gosport. *Hertfordshire*—Bishop Stortford, Hitchin, Ware. *Kent*—Ashford, Dartford, Deal, Margate, Ramsgate, Sheerness, Tunbridge Wells. *Lancashire*—Accrington, Burnley, Chorley, Colne, Eccles, Haslingden, Leigh, Middleton, Ormskirk, Over Darwen, Prescot, Southport, Staleybridge, St. Helen's, Todmorden, Ulverstone.

"Toute institution immobile est vicieuse, parce qu'elle finit par constituer un privilége en contradiction avec l'état réel de la société."[1] "Si au lieu d'attribuer nominément et à jamais les droits électoraux à tel ou tel bourg, les lois Anglaises les avaient confiés à toute ville dont la population s'élèverait à telle limite (ou dont le revenu serait de tel taux), la représentation, au lieu de se corrompre, aurait suivi les déplacements et les progrès de la véritable capacité politique. Nous pourrions multiplier les exemples, et prouver de mille manières, qu'il n'est bon, ni d'avoir un seul signe légal de la capa-

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Leicestershire—Hinckley, Loughborough, Melton-Mowbray. *Lincolnshire*—Gainsborough, Horncastle, Louth, Spalding. *Middlesex*—Brentford, Chelsea, Kensington. *Monmouthshire*—Chepstow, Tredegar. *Northamptonshire*—Daventry, Kettering, Wellingborough. *Northumberland*—Alnwick, Hexham. *Notts*—Mansfield, Worksop. *Salop*—Oswestry, Wellington. *Somerset*—Yeovil. *Staffordshire*—Burton-on-Trent, Leek, Wednesbury. *Suffolk*—Beccles, Lowestoft, Woodbridge. *Surrey*—Croydon, Kingston, Richmond. *Sussex*—Worthing. *Warwickshire*—Leamington, Nuneaton, Rugby. *Wilts*—Bradford, Trowbridge, Warminster. *Worcestershire*—Bromsgrove, Stourbridge. *Yorkshire*—Barnsley, Bingley, Dewsbury, Doncaster, Goole, Keighley, Otley, Rotherham, Selby, Skipton, Sowerby-bridge. There is, however, no reason for excluding towns containing less than 4000 inhabitants.

In a note in the *Star* newspaper, relating to South Durham, the writer observes, that "by far the largest town community in that county not separately represented in Parliament, is the seaport town of Hartlepool. A portion of this town is an ancient municipal borough, with a population of between 9,000 and 10,000 persons. Another portion of the seaport, commonly called 'West Hartlepool,' is under the local government of a Town Improvement Commission, incorporated by a private Act, obtained in the year 1854. The present population of the entire community is estimated at between 24,000 and 25,000,—that of Darlington, at between 12,000 and 13,000. In the year 1851, when the census of the municipal borough of Stockton was taken, the borough boundaries inclosed only a group of buildings in the centre of the town. By an Act passed in the following year (1852), the boundaries were made coextensive with the town, and the result has been to inclose a town's population superior to Darlington, by at least 1000 persons." These facts illustrate the impracticability of founding a durable representative constitution upon any present geographical divisions. It is only preparing the occasion for a new struggle.

[1] *Guizot, Gouv. Rep.*, vol. ii., p. 214.

cité électorale, ni de mettre ce signe hors de l'atteinte des vicissitudes de la société."[1]

It would be necessary to fix the numbers of the population, or the rated value of property, or some other measure, on attaining which any borough or local division should be entitled to elect a representative, if such election were to add an additional member to the representative body; but when, under the operation of another rule, the aggregate number of members can never be exceeded, and the relative and proportionate weight of every constituency is preserved, whatever may be its mutations, the constitution is relieved from the necessity of prescribing any measure, whether of number, or value, or other denomination. It may then be left wholly to the option of any body of electors proposing to form themselves into a separate constituency, and having reasonable grounds for doing so, to take proceedings for that purpose. The application for the privilege would be some evidence that the constituency deserved it; for nothing would be gained but the power of being represented in their corporate character by some man chosen by the majority, and between whom and the electoral body the connection of member and constituent may be a source of mutual gratification.

With our present experience of the apathy which is commonly manifested in political matters by great multitudes of the most intelligent classes—especially in their own particular districts—it is difficult to realise the expansion of individual energy and corporate spirit which a free political system would be likely to call forth; or to estimate the amount of the beneficial influence it would be calculated to exercise both on the character of the electors and the elected. It would bring out in all its force that spirit of zealous endeavour, honourable emulation, and just pride, which both creates majorities and renders them beneficial to society. Instead of extinguishing all but themselves, they stimulate the exertions

[1] *Guizot, Gouv. Rep.*, vol. ii., pp. 236, 237.

of the minorities. They do not quench, but fan the generous flame. In the successful struggle of the majority to elect the man whom they regard as the most distinguished of the competitors, the minority may be vanquished without disgrace, and retire with all the honours of a capitulation, the terms of which they have been able to dictate. It is an Isthmian triumph. It has brought out what is vigorous and powerful, and encouraged or provoked to some effort even the weaker and the more feeble, and the nation rises stronger and purer from the contest.

The effect of the free action of every member of an electoral division, in elevating the motives and objects which govern the general choice, is no vain imagination, unless all those feelings by which men were formerly attached, or were supposed to be attached to their country,—to their native or adopted town,—to their place of education,—or to the special society of which they form a part, are now extinct, and that we are reduced to a miserable personality, in which no man regards aught but himself. But the feeling is not extinct. The man, whose virtue or whose genius has conferred honour upon his country and his age, is still thought to shed some reflected ray upon the persons and places he was more nearly connected with. Universities claim a merit from having given to the world men of exalted worth. There is still a pride in companionship with the good and great. To give full scope to these better sentiments in political life, the electors of the kingdom must be extricated from the ties which indissolubly bind together the instructed with the ignorant, the pure with the corrupt, the good with the evil, those morally living with those morally dead, and which swamp all high hopes, and almost all high desires, in "that great Serbonian bog," where all are confounded together. Once set free, all the better elements existing in this great people would be brought into action, and encouraged to employ their most earnest thoughts and energies in assisting to gather and

surround the throne with the best and wisest counsellors which their times afford. When the present rude and undiscriminating method of election has ceased, and the names of the most distinguished men in every walk of life are laid before the electors, it will not be easy to make even the humblest voter turn aside to the inferior claims of more obscure men, unless they are brought before him with better recommendations than now suffice to determine his choice.

It has been a subject of great and just regret, that one consequence of the abolition of the close boroughs has been, in a great measure, to impede the access to parliament of a class of able men, who by their aid were enabled to devote themselves, and were gradually disciplined, to political labours. The complaint is admitted to have some foundation, even by those who had no confidence in the proprietors of the close boroughs as the examiners of rising ability or the arbiters of political success. The law which is here proposed would enable every University and College, every Inn of Court, and every collection of learned or professional men, having a corporate union, to be distinctly represented. It will open to all such bodies an honourable rivalry in an object which will at once confer dignity on themselves, and promote the public good. It will be their especial office and laudable pride to bring forward the men in whom they observe the highest qualifications. They will supply in at least an equally effectual, and, in a far more satisfactory manner, that avenue for talent, which the existing system has closed. The judgment of small and highly-qualified bodies of men, in selecting as candidates for public life those amongst themselves, or within the range of their observation, who have displayed remarkable abilities or qualities of mind, is more to be relied on than the operation of the uncontrolled will of any single individual, especially when the choice so made, in order to be effectual, requires the confirmation and approval of a considerable number of their countrymen. We may hesitate to

give credit to the opinion of the patron of a borough as to the eminent talents which recommend his nominee. The choice is apt to be attributed less to ability than to favour. When, however, we find the members of a college, or of a learned or other distinguished association putting forward, if not unanimously, yet with a very general concurrence of opinion, a man of whom they have personal knowledge, and whose character has made a powerful impression upon them, and confidently seeking a confirmation of their verdict from a large body of voters, it will not be unreasonable to place some reliance on the merits of him to whom such testimony is borne. The desire of success will afford the strongest inducement to the introduction of the best competitor. The increase of the number of constituencies, especially of constituencies numerically small, and having peculiar qualifications, would in many cases facilitate the entry into public life of men able and willing to employ themselves in the political service of their country, but whose merits are not widely known. Such an one might thus address himself at first to a comparatively small body of electors, perhaps favourably disposed towards him by companionship, appreciation of character or effort, by neighbourhood or traditional respect, and through the judgment and discrimination of this narrower circle, he may ultimately acquire that reputation which will secure for him the suffrages of larger constituencies or a national fame.

CHAPTER IV.

NUMERICAL DIVISIONS OF ELECTORS.

THE formation of electoral districts has been a subject of discussion from almost the earliest time at which the question of parliamentary reform began to be agitated. Various plans have been suggested for forming such districts or divisions. In the year 1780, the Duke of Richmond propounded, in the House of Lords, a comprehensive scheme of reform, in a bill which the brief record of that day states occupied an hour and a half in reading. This measure, after declaring the right of suffrage to be in male persons of twenty-one, went on to prescribe that a list should be taken in every parish of the number of voters, and returns of them made to the Lord Chancellor. "The numbers to be told-up, and divided by 558 (the number of members then in the house), and the quotient to be the number by which one member of parliament was to be elected. Every county to be divided into as many districts as they contain quotients of this nature, and these districts to be called boroughs."[1]

The course adopted in the Reform Act of 1832, is so well known that it will be unnecessary to do more than refer to a few of its features. As an alternative to avoid the disfranchisement of some small boroughs, the area of such boroughs for parliamentary purposes was extended to much of the surrounding country,—embracing, in some cases, a circuit of

[1] *Parl. Hist.*, vol. xxi., p. 687.

many miles. Of this the borough of Shaftesbury may be taken as an example, which was made to include thirteen surrounding parishes. In other cases, several towns, sometimes with their adjoining parishes, contributed to form a district of boroughs, and were empowered to return one member. In the Ayr district, for example,—Ayr, with portions of two adjoining parishes, having, in 1851, 17,624 inhabitants,—Campbeltown, 6880 inhabitants,—Inverary, 1064 inhabitants,—Irvine, and part of an adjoining parish, 7534 inhabitants,—and Oban, with part of an adjoining parish, 1742 inhabitants, were formed into such a constituency. In the case of a very large population, as in the metropolis, a district was formed by combining groups of contiguous parishes into a borough returning two members, as Finsbury. In other cases, where the neighbourhood of an ancient borough had become populous, the surrounding population was taken within the precincts of the parliamentary borough, as Exeter, a city of 34,317 inhabitants, which, for parliamentary purposes, was made to include parts of the parishes of Topsham, Heavitree, St. Thomas, and Alphington, containing together 6371 inhabitants. The principles involved in these forms of division or annexation exhaust all that has been proposed by reformers in this country. The plan of the Duke of Richmond is perhaps the nearest approach to that which was adopted in France by the National Assembly, and there founded on the several bases of territory, population, and contribution; the territorial basis being created by a division into departments, communes, and cantons.

The annexation of several agricultural parishes to a borough in their centre, as in the case of Shaftesbury, would seem to be a recognition of the fact that the alleged distinction between the interests of the borough and the county electors is but imaginary; for, if any real distinction existed, injury would have been done to one or the other. It would have been an injustice to hamper the action of either set of electors by

attaching them to the other. It may possibly be said that the borough electors are, in the cases of towns situated like Shaftesbury, only another class of county electors, and that the addition of the county electors to the borough was of no other importance than that of giving them another polling-place, and a larger share in the election of a member. All such considerations are in truth but solemn trifling. The parade of distinct interests and distinct objects in the country and the town it is to be feared is now rarely used, except to blind the eyes of the public, and perplex the question of representation.

The addition of populous suburbs to the constituency of a city or borough, already possessing no more than its share in the general representation, is certainly a mode of removing the discrepancy between the electoral privileges of the inhabitants of the city and the suburb; but when a suburb, containing a thousand voters, is added to a city which already contains four thousand, it is very difficult to say in what sense the representation is improved. If anything be gained by the thousand new electors,—any power of infusing their opinions into the representative body,—it must be so much taken from the four thousand old electors. The representation must have been made less a reflex of their opinions. "Au lieu de dénaturer les droits politiques en les exténuant, sous prétexte de les répandre, qu'il y ait partout des libertés locales, garanties par des droits réels."[1]

Such annexations to boroughs, or extensions of the franchise to surrounding districts, are, however, still gravely proposed as amendments. They may remove an inequality between the inhabitants of two contiguous places, leaving the greater anomalies and inequalities which extend over the kingdom untouched; but this is to divert the amendment which pretends to make, and should make, the representation more perfect, to another, a distinct, and a far inferior, object,—the

[1] *Guizot, Gouv. Rep.*, vol. ii., p. 263.

mere abolition of a local discrepancy,—an alteration which, it is seen, may even render the actual representation less perfect. Instead of resting satisfied with the removal of mere local irregularities, or inequalities, the object should be to create a general congruity, in which every part of the political edifice is adapted to its true purpose.

There are insurmountable objections to an electoral division founded solely on a geographical or territorial basis, and not corrected by some balancing movement, which answers to the fluctuations of society. In addition to the difficulty of arriving, even in the outset, at anything like equality in such a division, it has constantly to be reconstructed. The shifting centres of population and industry will every year disarrange and disturb it. No session of Parliament would ever pass without claims being urged for a new Reform Bill,—claims which, upon the principle of the divisions supposed to have been already made, are necessarily well founded, and entitled to attention. No one who duly estimates the importance of the ordinary labours of the Legislature, will be inclined to interrupt them by sowing the seeds of such perennial contests.

It is sometimes said, that merely a proximate, and not a mathematical, equality is sought for. Political justice is not so rigid as to demand the same measure of constitutional right for every corner of the kingdom. It is not like the law of nature, inflexible and impartial. It admits of inequality and injustice, on the condition that it be not too great, or too glaring. But who are to be the victims; and will they or ought they to be content with their fate? Would not such contentment, on the principles upon which the reform is carried out, be the mark of a servile disposition? A foundation adopted on the supposition that it is just, and which, after all, proves to be only an approximation towards justice, will render any settlement that rests upon it necessarily transitory and short-lived. If we begin with perfect accuracy, it secures, at least, a longer period before the scheme will

require material alteration; but if we set out with a system loosely and unfairly constructed, we begin with that which is already condemned, and has advanced some steps towards its end.

A defect in all geographical or territorial systems, from that of the Duke of Richmond downwards,—greater in its practical consequences than all the other inconveniences which attend them, great as some of the latter are—is that they, in their result, separate every part of the kingdom into two main divisions, one somewhat more, and the other somewhat less numerous; and they not only do not provide for, but they absolutely exclude from the Legislature, the representation of the opinions, feelings, or desires, of the less numerous of these divisions. It destroys the minorities, and in so doing seriously weakens and deteriorates the representation, even of the majorities. "Un système électoral qui, d'avance, annulerait, quant à la formation de l'assemblée délibérante, l'influence et la participation de la minorité, détruirait le gouvernement représentatif, et serait aussi fatal à la majorité elle-même qu'une loi qui, dans l'assemblée délibérante, condamnerait la minorité à se taire."[1]

In the establishment of what may be called a sliding or self-acting scale,—by which the additions to population that constantly occur, and the new communities that grow up, silently enter and take their place in the constitution, and for whose admission the communities that are stationary or decay, as silently make room, by a general and fundamental law, operating without any jerk or effort, preserving all parts without repletion and without void,—we are instructed by the experience of the United States, a people from whose institutions we have much to learn, both for example and for warning. It is that one part of their system which has never failed to work harmoniously and well.

If the American constitution had not fixed, as a funda-

[1] *Guizot, Gouv. Rep.*, vol. ii., p. 260.

mental law, the proportion of every state in the House of Representatives, and had not made that proportion to vary with the relative wealth, population, or importance of the several states, without the necessity of recurring from time to time to the federal legislature, it would have left the constitution open to internal contests, which must long ago have endangered, if not destroyed the Union. The number of members in the House of Representatives was fixed at one for every 228th part of the population, to be determined at the census which is taken every ten years, a fractional number in any state exceeding one-half of the quotient entitling that state to an additional member. All question as to the number of members to represent respectively the several states is thus reduced to the incontestable standard of figures. As a state becomes relatively more populous, it selects a greater proportion of the house,—as it becomes less so, its share descends. In the twenty-seventh Congress, one member was chosen for every 47,700 persons,—in the twenty-eighth, one for every 70,680 persons. Since 1850, one member has represented 93,420 persons, and the number of members has been 234.[1] The conflict of town and country, of city and borough, of seaport and inland town, among ourselves will never cease, until we have been enabled to introduce a compensating or

[1] The only objection ever made to this system of computation, has been that which related to the slave population, raising altogether a different question. The fundamental error of the American system has been in coupling this law of computation, which is essentially just, with arbitrary geographical divisions that fetter the action and minds of the electors, and are inevitably attended with the injustice of placing every man, in the great business of representation, at the mercy of the majority of his locality, and therefore at the mercy of the few who are most expert in marshalling that majority. This (which is also the great error of our Reform and Municipal Corporation Acts) was in America confirmed and riveted, as it were, by the federal law of the 5th June, 1842, c. 47, that compels the division, for electoral purposes, of every state into so many parcels of contiguous territory as shall be equal to the number of its representatives:

corrective power, founded on the same flexible, and yet unchanging basis.

In a former chapter, the method of ascertaining the quota of electors is described.[1] It is found by dividing the number of votes given in the three kingdoms, at the general election, by the number of members required to constitute the House, the quotient forming a quota of votes entitling every candidate for whom that number shall be given to be returned as a member.[2] In the first edition of this work the full quota was made indispensable to the return of every member, and an entire uniformity in the number of every constituency was sought to be attained. This uniformity could not be arrived at without difficulty; and the pursuit of it would be, as shown in a subsequent page, a pursuit of a symmetrical perfection not required for any of the purposes of representation. The more popular candidates will poll far larger numbers of votes than the prescribed quota, and therefore far more than are needed for their election. The varieties of feeling, of opinion, and of knowledge,—the contest of interests, or supposed interests, and the action of political parties,—will diffuse the votes widely amongst large numbers of the candidates of less individual eminence; and it will in all probability happen, that, after a quota of votes has been appropriated to every candidate whose political rank, reputation, or influence, national or local, has secured for him that number, several constituencies will still remain unable, at this stage of the election, to return the member or number of members to which they are entitled, owing to the candidates who are at the head of the poll in such constituencies not having the full quota of votes. Different methods of supplying the numbers which are thus wanting, by the selection of candidates standing next on the voting papers, are pointed out in a later page,[3] and a method of selection by comparative majorities, when the quotas cease, has been embodied in Clause XXV.

[1] Chap. II., pp. 25, 26. [2] Clause IV., p. 31. [3] See Chap. IX.

of the proposed electoral law, for the direction of the Registrars in appropriating the remainder of the voting papers.

The fourth clause of the proposed electoral law has prescribed the number of votes which shall be sufficient for the return of any member,—and the following clause defines the number which shall be insufficient.

VI. No person shall be returned as a member to serve in Parliament, at any general election, for whom there shall not be polled the full quota or number of votes, to be ascertained from time to time as hereinbefore prescribed, or one of the comparative majorities of votes to be determined from time to time as hereinafter directed.

In effecting the greatest moral object that society is called upon to undertake,—the formation of a legislative assembly,—a rational standard of association is thus substituted for a traditional one. Instead of an arbitrary geographical division, which the migrations of population will constantly disturb, the proposed equality of division would be affected by no commercial or social changes which the face of the country might undergo. It affords the means of giving to the counties, and to all the larger, as well as to the smaller towns, their due weight in the Legislature, by a rule at all times arithmetically correct, and admitting of no invidious distinctions between the inhabitants of the metropolis, or of the provinces. It places upon an equality the gentleman in Devonshire with the gentleman in Yorkshire, the merchant in Liverpool with the merchant in Yarmouth, the tradesman in Cornhill and in Calne, the artizans on the Trent and on the Tees. The relative weight of the larger, as well as of the smaller constituencies, is accurately measured and reconciled with the general representative system.

The operation of a system of electoral divisions composed of an unanimous quota of votes, may be compared with the operation of a system of contributory burghs, founded on

the principle of election by majorities, according to the existing law. Take the Ayr district, and suppose that there are 1039 voters, viz.,—

In Ayr	500
„ Campbeltown	200
„ Inverary	35
„ Irvine	230
„ Oban	74

It is possible that a majority of the electors of Ayr, or even every elector of Ayr, may be entirely unrepresented. The inhabitants of the four other towns may form the majority, and leave the town of Ayr without any share or voice in the representation. The same may, of course, happen to Campbeltown, Irvine, or any of the other towns. Nothing but securing a majority of the electors of the five towns can assure to any of the towns, or any of the electors in them, the election of their representative. If an unanimous quota of votes, wherever found, be made sufficient to return a representative, not one of the towns, or one of the electors in any town, could be, owing to the votes of the rest, without a representative. The member for Ayr would be elected by the majority of the electors of Ayr. Instead of being restricted to the other four towns, and compelled to consult their respective local prejudices, or succumb to their jealousies or intrigues, every burgh in the district might look for the residue of the quota required by the candidate whom they chose, throughout the entire kingdom of Scotland; and if that be not enough, throughout the United Kingdom. Their position may be likened to that of a merchant, to whom the facility of locomotion has opened all the great marts of commerce; and who is no more confined, as he had previously been, to the scantily-furnished stores of three or four neighbouring market-towns.

It is a necessary part of the proposed system that the quota

of votes must be made up, or if not, that at least a comparative majority must be attained; but that is nothing more than a necessary consequence of the principle, that towns of small importance, or containing comparatively few electors, cannot have the same corporate weight in the public councils as those which are inhabited by more numerous constituencies. Besides the relative corporate weight of the borough, there will be the uniformity of the individual weight of every vote, which becomes the same, whether the elector reside in Campbeltown or Camberwell.

Many objections will, no doubt, be raised to a scheme which insures success to every candidate who receives a certain quota of votes. There are parties, and leaders of parties, who have other plans and other objects. They appear to consider it their interest, or the interest of their class, that the electors should, in some constituencies, be counted by thousands, and in others by hundreds, or tens,—here huddled together in mobs,—there made up of a narrow clique,—here in huge masses,—there in petty clusters,—masses which may be led by clamour, clusters which may be bought for money. A system which is merely rational and consistent, and treats the franchise and its exercise as sacred things, is likely to find many opponents and little favour. The discourses which have been heard since the amendment of the Reform Act has been agitated, lead to the suspicion that in constructing any future measure there will be attempts on all sides to frame a system which shall pack the electors, so as to expose them especially to the operation of such forces as each party imagines that it has most at its command.

A highly-gifted member of the lower house has recently, as the firsts fruits offered—and no unfit tribute—for the blessing of restored health, again devoted his political efforts to that cause which he has always advocated,—the cause of peace. There is no greater or nobler mission. In such a theme the language of indignation at the follies and the crimes of men

may well be pardoned. It is a repetition of the sad story which foretold that—

> "Might only shall be admired,
> And valour and heroic virtue called.
> To overcome in battle, and subdue
> Nations, and bring home spoils with infinite
> Man-slaughter, shall be held the highest pitch
> Of human glory."

It is possible that since war has originated in cabinets and been sustained by loans, its true causes would often appear more deserving of contempt and reprobation from having lost that glow of heroism shed upon the deeds of those who personally executed what they planned, and shared in the sufferings and privations caused by the struggle. It cannot be doubted that low and selfish motives have entered into the business of government, and led to great calamities. Parties in this country have not been backward in exposing the faults of each other, but to regard such mean objects as the especial inheritance of any particular class is unjust. The proportions of good and evil existing in one class differ probably very little from those of all the rest. The class in which the government of this country has been chiefly vested may point with some confidence to records proving that if they have not been superior, they have at least been equal to the rulers of any other land, and that they have never been wanting in the full measure of the virtues of their race and age.

Where, however, in history, where in modern experience, is there ground for the belief that if the kingdom were parcelled into equal electoral divisions, and the majority in every division called upon to pronounce for peace or war—that it would follow that peace would be more certainly preserved? Let us recall the latest impressions, which, as individuals, we have all gathered of the opinions of the more numerous classes in recent times, and reflect whether war with Russia or war with

China would not have been entered upon with equal readiness, applauded with equal vehemence, and probably prolonged even more vindictively and more fiercely, if it had been left to a ballot of such electoral districts. It is said that this would not be so, for the poorer classes are those from which our soldiers and sailors are taken,—it is they who suffer in the conflict, and it is they who are still more impoverished by the prostration of industry which attends it. It is, indeed, true that they are the victims; but to suppose that, therefore, their passions will be restrained, that they will learn forbearance, that they will resist the specious arguments of men who know how to make the worse appear the better cause, that they will foresee the retroactive efforts of extravagant expenditure, the exhaustion which is to succeed unprofitable effort, the economical consequences which follow a vast outlay in destruction—is to suppose that the majorities have suddenly risen to the height of this great argument, and have become temperate, moderate, and wise. That such a consummation is the wish and hope of some who desire to place all political power in the hands of the greater number is not to be doubted; but is the expectation reasonable—is there the shadow of a hope of its realisation? Are the numerical majorities which govern the United States remarkable for their concern at the horrors of war,—for their solicitude to avoid national quarrels,—for their anxiety to preserve peace,—for their forbearance towards other countries,—for their respect of the claims of weaker neighbours,—for their tenderness of all aggression?[1]

[1] These pages were published before the beginning of the American civil war, but the Author cannot now let them pass without protesting against the injustice of attributing to the American form of popular government, either the severities of the war or the persistence with which it is prosecuted. There has been no act of cruelty, however deplorable, which is not equalled and surpassed in the exploits of the armies of Europe; and notwithstanding the evidences of indomitable spirit displayed by the South, if the Federal government had not engaged in a struggle,

It will be remembered, that the general election of 1857 afforded the advocates of the Chinese war a signal triumph. It was not alone the voice of small constituencies; some of the largest were even more remarkable for the manner in which they received and rewarded peaceful counsels. Whether in the late war with Russia the vital and material treasures of the nation have been vainly spent to sustain upon a throne an effete dynasty, to uphold the symbol of a cruel and intolerant creed, and perpetuate a social condition inimical to civilization; or whether it was the act of that deep and profound wisdom—that insight which is foresight—that study of history, which is philosophy teaching by example—that long experience of the dealings of nation with nation, which in humbler stations is gathered from the conduct of man to man, and which may enable statesmen of the highest order to gaze almost with prophetic eye into the future, and see to guard against other, perhaps distant, but more fatal evils—are questions which this age will scarcely solve; but there is no doubt that in this country the multitude, so far as they were heard, approved the sacrifice. Whether that sacrifice was made to the balance of power, to national interests, national pride or rivalry, or whether to the genius of war, there is no denying that the holocaust was freely offered, and that the altar was thronged with votive worshippers. A discourse in which peace and justice were displayed as the true wisdom of nations as of men, might have been heard with delight and applauded with enthusiasm, but that temporary emotion affords only slender reason for the hope that the lesson is the more deeply engraved on the popular mind.

> "'Hosanna' now—to-morrow, 'crucify,'
> The changeful burden still of their rude lawless cry."

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however long and bitter, rather than yield up so large a portion of the territory of the Union, it would have set an example of political moderation which neither monarchies nor aristocracies have hitherto displayed.—[Note to 3rd Ed.]

Some misgiving may well be felt even in the mind of the orator and teacher himself, whether there will in electoral majorities be any sure anchorage for the doctrines that lead to peace and tranquillity, when he observes that of the many assemblies which have since met, all ready to grasp the electoral power he would give them, how few have accepted its higher and holier uses.

It is by a concentration of the political strength of the advocates of peace—of all those who believe it to be inconsistent neither with the dignity nor the security of a great people, and that it may be safely built on a policy—open, frank, and just towards all, that they will acquire their due weight. They may rely on that theory which has, "if any theory has —borne the wear of time, and seen empires rise and set, the eternal theory that Truth is better than Falsehold, and that man was made to be upright."[1] This kingdom contains forty thousand ministers of the gospel of peace; perhaps, of all these, not a hundred have had in the existing system any opportunity of giving such votes as expressed their abhorrence of unjust wars—perhaps not one has by his vote produced the smallest effect on the result of any election—nor would their votes have any more weight in the most perfect system of geographical divisions which any Reform Bill has put forward.

On the other hand, there are many who, rejecting all electoral divisions, desire to preserve some of the small boroughs as the avenues for the representation of special interests. In a tabular statement, showing the population of the represented boroughs, beginning at the most, and ending at the least populous, the twelve last places are:—Arundel, Honiton, Ashburton, Lyme Regis, Thetford, Totnes, Harwich, Dartmouth, Evesham, Wells, Reigate, and Richmond, which may be taken as fair examples. What classes, it may be asked, do the electors of these boroughs represent, of what opinions are they the exponents, what interests do they

[1] *Westminster Review*, vol. xiii., N.S., p. 417.

protect? What have these unfortunate voters done, that they should be put forward in so prominent a place as the few men whose judgment in the choice of legislators may be more safely trusted than that of the great body of their countrymen? It is a position which is almost certain to expose their wisdom to doubt, and their virtue to danger. In several of these towns, so far as they appear to have any decided opinions, the majority appear favourable to the ballot, as, perhaps, might naturally be expected. All the representatives of those boroughs who are deserving of their high trust, would, no doubt, be elected under a different system. High rank, accompanied by character, talent, industry, and patriotism, is sure to be esteemed and welcomed. People look to an aristocracy of some kind for those whom they are ready to regard as their natural leaders.[1] But it is difficult to see in what respect any particular class or interest in the nation would suffer, if the twelve boroughs above named ceased as such to exist. It would be a curious speculation to take the political history of any of the smaller boroughs, and, following the votes of its representatives for the last half century, to ascertain what distinctive opinions or feelings the action of its electors has been the means of imparting to the legislature.

If it be the object of any party to preserve the small boroughs, either with or without the ballot, for the purpose of securing what they may deem the advantage of reserving some seats which shall be accessible to pecuniary influences, a more honest, and a not less effectual course, would be at once to propose that a certain number of seats should be put up to auction, and that the State should have the benefit of the purchase-money.

It is not, however, any part of the system now proposed, to deprive any of these boroughs of their just weight in the political system of the country. On the contrary, as in the case of the contributory boroughs before referred to, every

[1] See *Westminster Review*, vol. i., *n.s.*, p. 26.

elector they contain will have his electoral privileges for every good purpose largely extended. Like the other electors of the kingdom, instead of being confined within the narrow boundaries of their respective boroughs, they will be enabled to seek for concurrent views and opinions in the kingdom at large. Modern facilities and habits of locomotion have gone far "to remove national and provincial antipathies, and bind together all the branches of the human family. In the seventeenth century, the inhabitants of London were, for almost every practical purpose, farther from Reading than they now are from Edinburgh, and farther from Edinburgh than they now are from Vienna."[1] It is probable that many, if not most of the voters, will add their votes to those of their townsmen and neighbours, especially when the chief causes of jealousy and discord are taken away. Contiguity of place produces a tendency to union. It will always assert its influence. It is certain to affect more or less the conduct, and control the ties of social and political life,—but it is not, therefore, necessary that it should tyrannize over them. The destruction of a city in China affects us less than a broken limb happening before our eyes. It is a happy provision that our sympathies are most excited where they are most useful. But in the wider relations of national life, it is desirable that we should be governed less by impulse and more by reason—less by merely proximate, and more by general and universal causes. It is better to trust to the qualities of the person, than to the contiguity of place. Geographical limits, made the sole basis of political action and association, is not the development of a power, but the aggravation of a natural incapacity.

[1] *Macaulay, Hist. of England*, vol. i., p. 379.

CHAPTER V.

THE SELECTION OF REPRESENTATIVES.

In forming the representative body, to which, co-ordinately with the other branches of Parliament, is committed the power of government and legislation, it is undeniable that it would be wise to invite by every suitable inducement, and to gather together with every possible diligence and care, such minds as are by constitution, experience, or study, the best fitted to deal with the subjects which, at this day, come within the range of political action. The election confers no quality that the elected did not before possess—none other than "nature and education, and their habits of life, have made them. Capacities beyond these the people have not to give. Virtue and wisdom may be the objects of their choice, but their choice confers neither the one nor the other on those upon whom they lay their ordaining hands. They have not the engagement of nature—they have not the promise of revelation—for any such powers."

Political science is, perhaps, of all studies, the most difficult, from the boundless variety of its phenomena. The apparent simplicity of much that is upon the surface leads us to think that we comprehend it; and the depth and complexity of what is beneath and behind, which eludes our sight, seem to mock our attempts to penetrate its secrets. "If there be not a true understanding of what constitutes social development, there must necessarily be grave mistakes

made in checking these changes and fostering those. If there be lack of insight respecting the mutual dependence of many functions, which, taken together, make up the national life, unforeseen disasters will ensue from not perceiving how an interference with one will affect the rest. If there be no knowledge of the natural *consensus* at any time subsisting in the social organism, there will, of course, be impossible attempts to achieve ends which do not consist with its passing phase of organisation. Clearly, before any effort to regulate the myriad multiform changes going on throughout society can be rationally made, there must be an adequate comprehension of how these changes are really caused, and in what way they are related to each other, how this perplexed web of phenomena hangs together, how it came thus, and what it is becoming. That is to say, there must be an adequate acquaintance with social science,—the science involving all others,—the science standing above all others in subtlety and complexity,—the science which the highest intelligence alone can master."[1]

It is but too obvious that the traditional method of filling the House of Commons,—suitable as it was in earlier times, when a few master minds directed all public affairs, and the people came together, not to reason, but simply to confirm what their leaders had done, or proposed to do, is unsuited to this day. The subjects which now arise, and in which the public both feel and take the deepest interest, are almost infinitely various, and require to be approached with great preparatory knowledge. The growth of populous cities—the conquests of science in the material world,—the activity of commercial intercourse,—the progress of mental development,—all tend to create, daily, new questions and new problems, which it requires more than merely empirical knowledge to solve. On one side, it is proposed that political science should be systematically taught, and a measure of

[1] *Westminster Review*, vol. xii., N.S., p. 469.

proficiency distinguished by a diploma.[1] Others turn from the task in despair, and conclude that the vast range of the study places it, as a whole, beyond the intellectual grasp of any single mind, and that it is, therefore, vain to seek for greater qualities than we find in our daily path.[2] All, however, will probably agree that the country should collect the best materials which it possesses in the construction of its great representative assembly. Instead of this being attempted, the House of Commons, though nominally open to every subject, is yet surrounded by barriers, practical and legal, which tend, in their general character, to exclude the greatest number of those whose aid it would, upon that principle, be desirable to invite, and to facilitate the admission of those whom it would be desirable to exclude.

The obstacles are of a character which may be described as both practical and legal; practical, inasmuch as the cost and manner of elections impose difficulties which many, probably far the largest number, of those who possess the highest qualifications, are unable to overcome, and conditions to which they are naturally unwilling to submit; legal, inasmuch as large numbers of persons are disqualified by the arbitrary restrictions of positive law.

It is proposed in this chapter, after pointing out the circumstances in which our present methods of selection differ from those of former times, and remarking on the necessity of introducing a governing principle of a better nature, to treat of the increased facilities which may be provided, for obtaining in the House of Commons the services of the most highly qualified persons, and thereby giving effect to such better principle; and in the next chapter, to suggest the abolition of the practical and legal obstacles in the way of all such persons, of whatever class.

The difference, or rather, as it may not incorrectly be

[1] *Journal of the Statistical Society*, vol. xx., p. 121.

[2] *Blakey, History of Political Literature*, vol. i., p. 299. Lond., 1855.

termed, the contrast between the position of the country, with reference to the election of members of the House of Commons at the present time, and that in which it formerly stood, ought to be considered with much attention.

The natural process in a rude age would be the selection in every borough of persons in the town or neighbourhood, known to the burgesses, and willing to undertake a business which usually involved, of necessity, much expense and inconvenience. It is found, in fact, to have been very frequently avoided. As the institution advanced in importance, the great men of the county or locality became accustomed to point out to the freeholders and burgesses the persons whom they should choose, and their recommendations were commonly attended to. These leading men were themselves a part of, or intimately connected with, the higher aristocracy. They felt a personal responsibility in making the selection,—a responsibility which increased with the importance of the office. It was not a responsibility to the people, but to the party, or perhaps the faction, in the country with which they were connected or identified. They were answerable for the judicious exercise of this, as of all other influences which they possessed. Unwise or unskilful conduct in the business of his party would then, as now, cost a man more or less of its respect. Responsibility is not less real, because its sanctions are conventional. In pointing out to the freeholders or the burgesses the members whom they were to choose, they were under an obligation to select men fitted for the purpose, whatever that purpose might be. It might not then have been thought a duty to select men who were qualified to make laws or to act for themselves, or to discuss political questions. The questions for discussion were few, and such as they were, the leaders of the party or the faction probably intended to decide for themselves; but whatever interests, great or small, they thought it their duty to consider in the matter of selection, that duty they performed. The great

rebellion, it has been well observed, did not so much divide the country in support of any antagonistic and abstract principles, as range the contending forces on the side of the great leaders whose influence prevailed in the different parts of the kingdom.

The revolution brought a vast addition of earnestness into the business of choosing representatives. The great parties in the State began then to assume modern forms. The struggle for power became more intense, and electioneering was converted into an art. But throughout the whole of this period, it must not be forgotten that all elections were governed by persons acting under a sense of the importance and responsibility of their work. By importance, it is not meant that they necessarily felt the serious public interests which the task involved. The importance and responsibility were regarded with a view to party strength and party confidence. Upon the management of these forces appeared to depend, at one time, the overthrow of a dynasty; at other times, certainly depended the overthrow of a minister. The objects of the leaders in any part of the country, in labouring in either cause, might have been their own profit or aggrandisement; but in order to succeed in these objects, however selfish, they were obliged to select the best instruments to strengthen and concentrate their power. Their own relative importance in the court and the country might depend on the success with which they brought up the combatants in the great field of political warfare. The growing activity of the press, the general diffusion of information, made it necessary, in later times, to collect a different class of men. The necessities of debate called for talent. Those who influenced the elections, whether for counties or boroughs, gave their attention more and more to this species of political action. Whether a borough was owned or governed by a whig or a tory,—whether bought to support an East Indian or a West Indian interest,—or whatever special or general object its

patron had in view, in order to succeed in that object he was compelled to choose the most suitable instrument which could be had. The result of this competitive pursuit, possibly more of selfish than of national objects, was yet to produce an assembly composed, for the most part, of superior men. It was the sure operation of those adequate causes, which, to use the words of Mr. Burke, filled the House of Commons with much of that which the country possessed,—"illustrious in rank, in descent, in hereditary and in acquired opulence, in cultivated talent, in military, civil, naval, and politic distinction."

The state of society silently underwent a change. The system which produced these results had fulfilled its purpose. It could not be perpetuated, the middle classes which grew up were not prepared to yield unreasoning obedience to hereditary leaders or ancient names. If the few possessed a sacred and prescriptive right to speak and act for the many, it was a right not easy of proof, and not to be admitted without proof. They bore about them no marks indicative of the divine origin of their claim, and no muniments were found to support their pretensions. The old chronicles of the people told that their forefathers, while yet in the German forests, had used to be consulted by their chiefs,—that the Plantagenets had summoned their ancestors to the royal councils,—and that the haughtiest of the succeeding monarchs had then found no security but in laws which the deputies of the people had confirmed. They demanded that the representation should be what it professed to be. They were not satisfied that the government had attained, or was in the road to, perfection. They were acute and severe critics of its evils and anomalies, and were not content with arriving occasionally, and by indirect courses, at objects which they insisted should be sought for incessantly and directly. In forming a representative assembly they preferred a homely and clumsy reality to a splendid and not unsuccessful show. Their demands

were conceded, and the vessel of the state has been borne safely through a period which has seen the wreck of many other constitutions.

The picture unfortunately has another side. The powerful patron,—the guiding hand that ruled the election, and suppressed all other influences,—could form no part of a system in which the representation is to be personal. But with the indicating mind is gone all sense of responsibility for the choice which is made. There is no obligation on any voter to bow to the choice of another. Every man is as well entitled as another to be the leader; and where every man is equally entitled to be chief, there can be no usurpation and no rebellion. A community so situated is reduced to a state of natural society so far as relates to duty or function. They remain in a state of civil society in all other respects, for the laws are present to enforce its obligations; but, as to the right of voting for parliamentary representatives, the principle is,—that every man shall do what is right in his own eyes. Viewed on this side, the electoral principle is anarchic. In this diffusion of forces which were heretofore concentrated, it becomes of paramount importance to purify the sources from whence they derive their energy.

"Il ne faut pas beaucoup de probité pour qu'un gouvernement monarchique ou un gouvernement despotique se maintiennent ou se soutiennent. La force des lois dans l'un, le bras du prince toujours levé dans l'autre, règlent et contiennent tout. Mais, dans un État populaire, il faut un ressort de plus, qui est la VERTU.

"Les politiques grecs, qui vivoient dans le gouvernement populaire, ne reconnoissoient d'autre force qui pût le soutenir, que celle de la vertu. Ceux d'aujourd'hui ne nous parlent que de manufactures, de commerce, de finances, de richesses, et de luxe même.

"Lorsque cette vertu cesse, l'ambition entre dans les cœurs qui peuvent la recevoir, et l'avarice entre dans tous. Les

désirs changent d'objets; ce qu'on aimoit, on ne l'aime plus; on étoit libre avec les lois, on veut être libre contre elles; chaque citoyen est comme un esclave échappé de la maison de son maître; ce qui étoit *maxime*, on l'appelle *rigueur;* ce qui étoit *règle*, on l'appelle *gêne;* ce qui étoit *attention*, on l'appelle *crainte*." [1]

It is necessary to examine closely the operation of the principle of representation under the system now inaugurated, and if it be possible, to discover in what guidance, wisdom and safety are to be found. This inquiry involves some investigation of the state of popular life and manners amongst us.

The natural tendency to association, common to society, has been the subject of remark in a former page. The places in which people meet, and their habits and employments, form the features of social life. At the present time it is impossible not to remark the great number of public-houses and beer-shops.[2] There is no doubt, that these houses of entertainment are places of great resort. It must not be thought that this is mentioned as a social reproach. It is due to many causes: much to the uninviting character of the vast number of dwellings in cities and towns, not of the labourers alone, but even of the smaller tradesmen. The mind yearns for some relief from sights and sounds ever sordid and ever discordant. Much, also, is due to climate, which permits little social intercourse of any prolonged kind, except under the protection of warmed and covered buildings. An eminent statesman, in one of his addresses on national subjects, lately remarked upon the difference between our modern life and public life in Greece and Rome, where the people conversed

[1] *De l'Esprit des Lois*, liv. iii., chap. 3.

[2] In one borough, Kidderminster, in 1852, of 494 parliamentary voters, 109 were publicans and beer retailers, and the licensed houses of this kind in the town were 150. Of these establishments it would therefore appear, that about forty were not of sufficient value to place their occupants on the register.—*Times*, April 15, 1857.

in the open air, and under more favoured skies. With us it is unquestionable, that much of the time which the lower classes can spare from daily toil and necessary rest is spent in seeking ease and enjoyment in the houses which are thus provided for their use. It is there that they meet society of congenial habits and tastes. Another feature of English life, especially, is its domestic character. This feature is predominant in the classes somewhat above the lower, and is more and more brought out as the depressing conditions of existence are removed. As a man advances in his pecuniary circumstances, he gradually becomes less gregarious,—his house assumes an air of comfort,—furniture of mean appearance is exchanged for what is more elegant,—his rooms are embellished with engravings or paintings that bring before his eyes some scene or tale touching a hidden chord, and awakening thoughts, deeper and higher than the counter, the workshop, or the desk has ever prompted; he loves his home, as his home becomes lovely,—his enjoyments, though intensified, are brought more within the narrow circle of his family and select friends. The refining process of society thus proceeds, and the coarser elements are left behind. They are left behind, because their capacity for better enjoyments has not been cultivated, and perhaps even the desire for them has in many been chilled and extinguished by adverse circumstances.

There are also many clubs and associations. Of these are the numerous benefit clubs—the Odd Fellows, Foresters, and other societies, embodied under various names and rules, and having many good purposes. In all these bodies there are some men who have gained an influence over others, to which they consciously or unconsciously, more or less, submit. The multitude thus form innumerable knots, linked and tied by the countless affinities and tastes which attract men to their fellows.

In every borough, in every electoral district, in every community, some men will be found with penetration enough to

discover the weaknesses, the follies, and the vices of their neighbours, and who are both skilful and unscrupulous enough to make them subservient to their own ends. These men are keen in the discovery of fit companions and tools for their purposes. "Noscitur a sociis" is a proverb. They form connecting links with another class of men which had grown up before the time of the Reform Bill, and has since ripened and increased with great fecundity—a class of election agents. The election agent is in habitual communication with the cleverest and the most unscrupulous of those who are either themselves leaders, or know how to tempt or cajole the most influential members of the various little knots or clubs which meet in the parlours and tap-rooms of every public-house in the borough or district. The intercourse between the agents and the intermediate parties is kept up by many reciprocal services, by assistance in business, introduction to offices and employments, under railway companies, in municipal and parish offices, and in other occupations in life, loans of small sums of money, and in infinite variety of favours of greater or less value. By this connection a machinery is ready at all times to cast a web over a very considerable number of the voters of the borough or district, including, of course, a large number of the inhabitants who have no votes. It is time enough to make a distinction between the two classes when the net is to be drawn.

We now come to the candidate. A general election is anticipated, and the aspirants for parliamentary distinction are brought into communication with the local agents. The candidate may be the director of a joint-stock bank, having a large credit given him by his brother directors; he may be an embarrassed man, seeking, by a desperate effort, to retrieve his affairs; he may be a roué requiring a change in his method of dissipation; he may be a second or third-rate lawyer, hoping that the chances of parliamentary subserviency may open a road to promotion which the legitimate labours of

his profession are unlikely to afford; or he may be a wealthy man, moved by "a wish to garnish an acquired fortune with a little bit of ornamental dignity, or to lay the foundation of a successful career of tuft hunting."[1] Money, however, finds its way to the hands of the agents—money which has apparently nothing to do with the expenses of the election, and does not even come, by any direct or traceable means, from the candidate. It happens, however, that the parlours and tap-rooms become wonderfully animated. More refreshments are consumed; and less is said about the payment. These convivialities have ostensibly nothing to do with the election. There is no mention of any such thing; they are all in the way of good-fellowship, and are matters into which nobody has any business to inquire. The time comes when the signal is to be given, and the curtain drawn. The election is at hand: the approach of a first-rate liberal or a conservative of the purest water has been darkly announced. Perhaps an address, inviting the distinguished individual to offer himself for the representation of the electoral district, is got up, presented, and graciously responded to; but whatever be the course adopted, when the word is given by the chief agents to their inferior auxiliaries, a simultaneous concert bursts forth in praise of the candidate elect, and if the game has been played with anything like skill and liberality, he has already made such progress towards success as to render it very difficult for any adversary to displace him. The various steps have been taken silently, and apparently without any plan or contrivance. Nobody knows how the candidate first came to be thought of. Nobody knows, of course, how the mantle happened to fall upon him, but the remarkable concurrence of opinion amongst so many persons, having no visible connection one with another, is to the simple-minded electors no small proof of his merits. It is easy to purchase the needful quantity of laudation and bluster. The hidden

[1] *Quarterly Review*, vol. cii., p. 58.

source of all this activity is known only to two or three, or at most a few of the initiated, who convert other men into their unconscious tools. "The corrupt lead the blind, and the blind lead one another." The candidate is instructed in what he should say, and more perfectly still in what he must not say. The proper insignia of party, whether liberal or conservative, the popular shibboleth, are settled and made the most of; and, unless the candidate be encountered by an adversary with more funds or better tactics, he embarks with every chance of success. In a general scramble for votes, with no trusted leader, it is not surprising that the most cunning and the most impudent should gather the greatest share.[1]

If, it may be asked, any of the electors, especially the more intelligent, be not satisfied with the candidates who have presented themselves, why do they not bring forward others? Why do they suffer themselves to be led or cajoled by a section or clique? To this question there are many answers: first, the machinery by which the candidates have been placed where they are, has been carefully concealed. The foul play may be selected, but it is not known, and cannot be proved. Secondly, it is well known, that when the ground is once occupied, all attempts to introduce other candidates are nearly hopeless, and, if made, are sure to cover him who makes them with obloquy. He is branded as a traitor to the cause of his party. He is told that it will divide the interest, and let in an opponent. It is clear, in fact, that every additional candidate—every step which would thus appear to afford a wider field for the choice of the electors—actually tends to defeat its own purpose, and more

[1] "Better the Whartons and Delavals," is indignantly said, "than mediocrity and meanness returned by jobbery and machinery." Id., p. 42. The description given by an American writer of the arts of electioneering practised under their institutions, and quoted by Mr. Tremenheere (Constitution of the United States, p. 130), shows that they are of an analogous kind under similar circumstances.

and more to extinguish the voices of the electoral body, by throwing the election into the hands of the few who, by the absence of all scruples, are held most compactly together. Thirdly, if he persisted in bringing forward another candidate, he would probably be met with the proposals of the fairest aspect; he would be invited to submit his candidate to a preliminary ballot, in which not only his more formidable adversary, but some others, should also be submitted for the choice of the party, and in which the phalanx of his chief opponents are, by their previous arrangements, assured of an easy victory. Fourthly, if he still persisted in bringing another candidate to the poll, the language of invective would be exhausted to stigmatize the conduct of one who should thus, instead of submitting to party, think fit to act for himself. His personal quiet and repose would be destroyed, and the neighbourhood, for a year or two at the least, would be too hot to hold him. And, fifthly, not only is the business of leading an opposition at an election one for which few men have at once time, talent, and disposition; but no man can bring forward an opposing candidate without subjecting him to considerable expense; and, before a man will undertake such charges, there must be more hope of ultimate success than the possession of senatorial qualities, of ever so high an order, would in such a case give. It is obvious, that the practical difficulties in the way of the escape of individual electors, by any efforts of their own, from the power of an organised network of corruption, are insuperable.

There have been, since as well as before 1832, some boroughs, in which other means of direction and guidance have been preserved,[1]—as there were before that time, as well

[1] See *Parliamentary Government*, &c., by Earl Grey, p. 19. The question of adhesion to the landlord is in these boroughs generally not a question merely of a little more or less rent, but whether the tenant is to abandon the business in which he has been brought up, and the connection

as since, counties and boroughs in which elections were scenes of moral degradation more disgusting than any of the metropolitan fairs which, within the last few years, have been put down as intolerable. The political leaders of those days had prepared the way for a system of corruption, which is now less open and barefaced, but more extensive, systematic, and effectual. Poets and painters have given permanence to the memory of the orgies of former times, which sapped the foundations of morality, by showing that persons of the highest station were ready to sacrifice morals to expediency. It was a maxim then, as now, that all is fair in electioneering,—the result being, that people whose probity was unquestionable, lost all their strictness on the occasion of a dissolution. "Men," says Southey, "who at other times regard it as a duty to speak truth, and think their honour implicated in their word, scruple not at asserting the grossest and most impudent falsehoods, if thereby they can obtain a momentary advantage over the hostile party."[1] The system was only a fit accompaniment of the age of drinking, duelling, cock-fighting, and like brutalising habits. To it was sacrificed as well female delicacy as manly truth and honour. An idiot laugh was echoed by the crowd, as a high-born dame, in rank of the noblest, in beauty glorious as a vision, profaned the heavenly gift, cast aside the modesty of her sex, and yielded to a filthy caress, to buy a vote.

The effect of electoral contests before 1832, which, from the number of close boroughs, were, of course, much less numerous, tended to demoralise a portion of the constituency, and the inhabitants of the places where they occurred; but, at the same time, they generally ended by placing in the House the most eminent men of the day. The system since

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which he has formed, for some new and untried sphere or avocation. It is one of vital importance, and no secrecy would give the voter independence. They would be held responsible for one another to the patron.

[1] *Quarterly Review*, vol. cii., pp. 43, 46.

1832 vastly increases the number of electors who are subjected to moral or mental degradation, or both, and at the same time, with a few exceptions, fills the representative assembly with an inferior class of men,—men who have not been compelled to pass through the tests which, in the former period, were generally effectual barriers in the way of those who had nothing to recommend them but the command of ready money or audacity. Extending the suffrage under the present system, extends the demoralising influences, as it increases the necessity for a skilful organisation. The price of a vote, or the inducement to vote, may become very small; it may be no more than suffices for a day's debauch; but the organisation must then be more perfect, as more complicated management is necessary in the government of a large manufactory, than in the conduct of a single workshop. This may be confidently predicted,—that if our electoral bodies are to be all concluded by the votes of their majorities, and if the ballot is to be introduced, whereby the profit of the managers and club-leaders can be made dependent on their success, all means of punishing or detecting bribery being abandoned,—wealth and luxury increasing, and the power and influence of the House of Commons also at the same time increasing,—we have not yet sounded anything approaching to that depth of corruption, and consequent degradation, which we shall surely reach.

The reformers of 1832 cannot be supposed to have been ignorant of the disposition of the mass of mankind, a disposition amounting to a law of nature, to follow where it is led, whether the way be good or evil. It is the few who will always conduct the many. "An immense majority of men must always remain in a middle state, neither very foolish nor very able, neither very virtuous nor very vicious, but slumbering on in a peaceful and decent mediocrity, adopting without much difficulty the current opinions of the day, making no inquiry, exciting no scandal, causing no wonder,

just holding themselves on a level with their generation, and noiselessly conforming to the standard of morals and knowledge common to the age and country in which they live."[1] Left to themselves they will willingly—every one according to the tendencies created by his moral or physical condition—adopt as their guide and model him whom they may happen to regard as the most distinguished or the most admirable. There is not the shadow of doubt that, other things being the same, the man of high rank or noble descent would be chosen by the vast majority; and, probably, the same grounds of pre-eminence would eclipse in their eyes many other virtues and qualities which they are less able to appreciate. This is not necessarily sycophancy. There is nothing to deprecate in the habit of yielding respect to a nobility which bears the stamp of the highest authority of the State in which we live—the recognised fountain of honour. "It is, indeed, one sign of a liberal and benevolent mind to incline to it with some sort of partial propensity. He feels no ennobling principle in his own heart who wishes to level all the artificial institutions which have been adopted for giving a body to opinion and permanence to fugitive esteem." Of this result we may at least be certain, that a leader will appear, and if he be not discovered in the palace, he will issue from some lower degree of life, and if no better be found, he will be taken even from the beer-shop. The reformers of 1832 might not unreasonably have hoped that in the future public action for the public good, the better influences would appear and assert their power; but it was not possible for the Reform Bill to set up other leaders in the place of those it dethroned. The oligarchical spirit was expelled from the temple dedicated to the use of a free people; but no sooner was it cleansed than it became the habitation of a legion of other spirits, more vile than those which were cast out. It behoves the Legislature, while

[1] *Buckle's History of Civilisation*, vol. i., p. 162.

there is yet time, to commence the purification of the temple which has been thus defiled, lest we realise the other part of the Gospel parallel, and our last state be worse than our first.

There is not at present one legal or practical security, that the so-called representative of any borough or district shall possess a single quality fitting him for the high trust committed to his care. He has not been chosen for any special attainments, for there has been no test or examination; or for his superiority to others, for there has been no comparison. Much value has of late been attributed to administrative talent, and much importance has been attached to the exclusion from offices, in the public service, of persons who have not proved themselves to possess a certain positive amount of capacity, and even a superiority to others in comparative excellence. But in conferring the awful power of legislation, "which any man may well tremble to give or to receive," there is less of actual precaution and scrutiny, and absolutely none of the tests of competitive excellence, which are required in the appointment of an exciseman.

To delineate the election, for which the machinery has been prepared by the election agents in the manner referred to, would be an attempt to trespass on the province of the satirist. It is enough to say, that by reducing, as our system necessarily does, the literate and the ignorant, the high-minded and the corrupt, to one dead level, it probably ends in the return, as a member for a wealthy and populous borough, of some man whom it is a pure fiction to describe as its representative; and if it were to be considered other than as a fiction, it would be, as to half of the inhabitants, a mockery and an insult. "We find several very considerable classes of electors, who have little or no will in the matter." "Those who recognise, in any adequate degree, the importance of honestly exercising their judgments in the selection of legislators, and who give conscientious votes, mostly form but a minority; and the

election usually hangs less upon their wills, than upon the indirect and illegitimate influences which sway the rest."[1]

The fault or the misfortune of an unworthy choice is primarily due to the absence of responsibility. There is no single elector on whom the opprobrium falls, and a disgrace which is shared with an entire electoral district is no disgrace at all. The borough, or the district, is not under responsibility to one of the greatest controlling powers on earth,—the sense of fame and estimation. The share of infamy that is likely to fall to the lot of each individual in public acts is small indeed; the operation of opinion being in the inverse ratio to the number of those who abuse power. Their own approbation of their own acts has to them the appearance of a public judgment in their favour. It is the sense of individual "fame and estimation," or, in other words, of individual and personal responsibility, that it is absolutely necessary to restore; and this individual responsibility cannot be restored unless the individual electors have, each and every of them, that power which the old patron or political leader had, of looking around, and selecting as his representative that man whom he believes to be the best suited for the office; and this cannot be if his power of choice be restricted to the two, three, or four persons who may think proper to present themselves, and solicit his suffrage.

No society, whether it be domestic, civil, or military, can prosper, unless all those who compose it have, not only their appropriate duties, but means and opportunity to perform them. The business of a nation can be conducted by no other mystery. It is of so much importance that the principle of personal responsibility in the performance of electoral duties should be realised, that it may be useful to exhibit its active operation in the other affairs of life, in which men are compelled to feel a real concern. In questions of property, the most ingenious endeavours are made to protect a man

[1] *Westminster Review*, vol. xii., p. 461.

from being affected by the act of his neighbour without his own consent. For example,—as a town increases in size, a landed proprietor grants to a builder the lease of a field, on which he is to erect a number of houses, and keep them in repair for a term of years, and if he omits to repair, he is to be subject to ejectment. Fifty houses are built, and sold to as many different people. The owner of No. 50 permits his house to fall into decay, and the owner of No. 1 finds that he is liable to lose his house for the default of his neighbour. This happened a few years ago to the inhabitants of a large part of Somers Town. It is a state of things which people naturally regard as intolerable. Lawyers dissuade their clients from purchasing houses unless they have an independent lease directly from the landowner. It is one of those cases against which Lord St. Leonards, in his familiar epistles on the law of property, has, no doubt, guarded his readers. Yet the owner of the house No. 1 is not more clearly deprived of his property by the conduct of the owner of No. 50, than one voter may be deprived of his power of choosing a representative by a combination of a few other voters. The situation of a shareholder in a joint-stock bank has been thought one of great hardship when he finds himself ruined by the directors; and the constant resort to the protection of a limited liability—are all so many protests in favour of the principle of individual responsibility.

It may be thought a gigantic undertaking to bring home personal responsibility to every individual of a million of electors; but that must be done if every individual of the million is to have a will and a voice. The other multiform duties of individuals, of family and social life, notwithstanding all the infirmities of our nature, which the divine and the moralist reprove,—are performed with sufficient exactness to preserve the general tranquillity. Why should this great social duty be alone out of the pale of morals, and be thought one which anybody may trifle with, disregard, or violate? The same

sense of duty which assists and accompanies the performance of the other acts of life must be attached to the act of voting. The indispensable conditions are—to render the duty of every man as perceptible to his understanding as it can be made, and to remove every obstacle in the way of its performance. The opening to every elector of the power of performing his electoral duty is the first and prime necessity, in order to re-establish the sense of personal responsibility, or the empire of conscience, in electoral action. No man will feel a conscientious obligation to undertake a duty which he believes to be beyond his resources to accomplish. Conscience, as a motive of action, is too dull rather than too sensitive. It is not the habit of mankind to strain all their resources in order to bring their conduct within the dominion of conscience. It is well if they can be led to act in obedience to conscience, when the means are ready and the dictate clear. Lamentable will be the error of those legislators—unhappy the condition of that people—who think, and form their constitutional laws on the belief, that government by representative institutions can be safe or permanent without the aid of conscience. It may be more or less enlightened; but be it clear or dim, it must be the guide; and that it may have its full force, it should be brought home to the knowledge and conviction of every elector that his vote is entirely within his own control; that he has the power of giving it in favour of the man he deems the worthiest of his age, and that when given it cannot be without effect. The judgment of the whole electoral body of the kingdom must be made up of the aggregate of the judgment of every individual, and the conscience of the whole electoral college must be the contribution of the separate consciences of every individual. There is not a person in Lambeth, from the archbishop to the poorest labourer, who is not answerable for his own acts, according to the measure of the ability which God giveth. To the prophetic declaration, that every man shall suffer for his own sin, both faith and reason are alike

submissive. In physical evils there may be a community of suffering—but moral responsibility is only individual.[1] The parish of Lambeth or the borough of Lambeth has no moral responsibility. A soul is not a corporate thing. There is no corporate conscience.

In order, then, to give to individuality that free agency which is the mother of responsibility, every voter must have

[1] "En effet, plus l'individualité est développée chez quelqu'un, plus le sentiment de sa responsabilité a grandi, et à ce développement dans le sentiment de sa responsabilité, correspond un développement parallèle de sa conscience. Atténuez, effacez l'individu; absorbez-le dans la masse; il obéira de plus en plus à des instincts, à des impulsions, et se rapprochera de plus en plus de la machine. Chargez-vous de ses affaires, il deviendra de moins en moins apte à s'en occuper."—*Le Christianisme et l'Esprit Moderne*, par Arbouisse Bastide, p. 158. "A man," observes Mr. Maurice, "will not really be intelligible to you if, instead of listening to him, and sympathizing with him, you determine to classify him."

"L'intelligence de chacun peut fleurir, tandis que son individualité se dessèche et meurt. Ni la pensée dans tout son essor, ni les passions dans tout leur excès, ne la développent ni ne la manifestent. Avec tout cela, on peut n'avoir aucun caractère à soi. L'âme ne reçoit son nom propre, sa personnalité vraie, que de la conscience, confident trop négligé, autorité trop méconnue, mais qu'il faut toujours écouter quand on ne veut pas livrer son *moi* à des influences fortuites et étrangères, quand on veut vivre de sa propre vie, quand on veut être soi-même."—*L'Education, la Famille et la Société*, par A. Vinet, p. 402.

"L'état de notre époque se caractérise par deux traits en apparence contradictoires: le relâchement de l'unité sociale par la prédominance toujours plus avouée de l'égoïsme, et la pente toujours plus forte des consciences à s'abdiquer pour se livrer au torrent de ce qu'on appelle l'opinion publique ou l'esprit du siècle. Ainsi, les progrès de *l'individualisme* d'une part, de l'autre l'extinction graduelle de *l'individualité*, voilà, par l'action d'une même cause, le double abîme, ou plutôt les deux abîmes creusés l'un dans l'autre, où nous sommes précipités. Qui nous retiendra sur ce rapide penchant? Si quelqu'un le sait, qu'il le dise."—Id., 408. See also, on this subject, the article on "Civilization," *Mill's Dissertations and Discussions*, vol. i., pp. 161—205, a paper which was first published in 1833. These are warnings and protests, from different schools of thinkers, against the increasing prevalence and operation of a general and uniform opinion and sentiment derived from a common authority or source, and gradually enveloping individual thought and action in its powerful and inextricable folds.

the most enlarged field of choice, and the most unfettered means of exercising it.

A method of effecting these objects has been partly stated, and remains to be further explained. The first condition obviously is, that every elector, when he is called upon to exercise his franchise, should be perfectly informed of the extent of the choice before him. When it becomes his duty to select a representative, he must be told who are willing to accept the trust, that, amongst them, he may choose the man whom he shall deem the fittest to be entrusted. No proposition can be more simple or undeniable than that, properly to exercise a discretion, it is necessary to know what discretion one has to exercise. The names of all persons who may offer themselves for the political service of their country may be collected under a law, of which the following is an outline:—

VII. Upon or at any time after a dissolution of Parliament, until the time appointed for polling at the ensuing election, every person offering himself as representative in Parliament at such election, shall signify the same, in writing, to one of the said Registrars, viz.—if he be a candidate for the representation of any constituency or constituencies in England, to the Registrar in London; and if he be a candidate for the representation of any constituency or constituencies in Scotland, to the Registrar in Edinburgh; and if he be a candidate for the representation of any constituency or constituencies in Ireland, to the Registrar in Dublin; and every candidate shall, in such writing or declaration, state for what constituency or constituencies he offers himself as a candidate; and shall also state whether he holds any, and if any, what office, either under the Crown or in the public service; and he shall also, on the delivery of such declaration, pay to the Registrar the sum of [£50]; and the said candidate shall not, by declaring himself a candidate as aforesaid, become therefore liable to bear or pay any further expenses, either general or local, incidental to the election.

The names of all those who may offer themselves for the political service of their country having been thus collected—without, in any measure, interfering with the individual and special efforts which any man may think proper to adopt, for the purpose of communicating with the particular boroughs

or constituencies to which he presents himself,—the next step is to bring the names of all the candidates in one view before the electors. It is thus that the nation, in the greatest of all national actions, will adopt means analogous to those which have powerfully contributed to the progress of education, of art, and of science, by concentrating their productions, and submitting them all to the test of the widest comparison.

The promulgation of the names of the candidates may be regulated by the two following clauses; in which, as in prescribing all the other functions of the Registrars, their duties may be so clearly defined, that nothing be left to their discretion. Every step would be governed by the rigid impartiality of anterior and positive law.

VIII. The Registrars for England, Scotland, and Ireland respectively, shall, on every week-day, commencing the first day after a dissolution of Parliament, on which any candidate delivers such declaration, and makes such payment as aforesaid, and continuing until the day appointed for the general election,—prepare a list of the names of all who shall have declared themselves candidates to represent any constituency or constituencies in Parliament, and shall have made the said payment, stating in such list the respective constituencies for which they are respectively candidates; and the Registrar in London shall cause such list as aforesaid of the candidates for English constituencies to be published in the *London Gazette*, or a supplement thereto; and the Registrar in Edinburgh shall cause such list of candidates for Scotch constituencies to be published in the *Edinburgh Gazette*, or a supplement thereto; and the Registrar in Dublin shall cause such list of candidates for Irish constituencies to be published in the *Dublin Gazette*, or a supplement thereto; and the said Registrars respectively shall transmit copies of the said lists daily to the returning officers of the said constituencies respectively, who shall cause copies thereof to be printed and published, for the use of the electors of their respective constituencies, and sold at a price not exceeding one penny for every complete list.

IX. The names of all the said candidates shall be inserted in the said gazetted list in the following order: viz., as to all persons who have theretofore had seats in Parliament, in the order of the respective length of the periods for which they have been members thereof, beginning with the candidate who shall have sat the longest, and ending with the candidate who shall have sat the shortest, period of time in Parliament; and as to new candidates, according to their age, as the same shall be stated in the declaration delivered to the Registrars as aforesaid, beginning with the

oldest, and ending with the youngest, of such new candidates; and where any such length of time, or age, shall be the same as to two or more candidates, or shall be doubtful or not stated, then, according to an alphabetical arrangement of the surnames of such candidates as to whom such particulars shall be so equal or doubtful or not declared, and which alphabetical arrangement of names as to new candidates shall be placed after the other names in the said lists.

The working of these laws will be brought more distinctly into view by placing before the eye part of a supposed *London Gazette*, containing the names of the candidates for English constituencies. It might appear thus:—

GENERAL REGISTRAR'S OFFICE FOR ENGLAND.

———— day of ———— 1859.

The persons whose names are set forth in the Schedule hereto, have declared themselves respectively to be candidates for the representation of the constituencies respectively set opposite to their said names, in the next Parliament, being the ———— Parliament of the United Kingdom of Great Britain and Ireland, and have complied with the regulations required by the Act ——.

(Signed) ————————

Registrar.

THE SCHEDULE ABOVE REFERRED TO.

Sir Charles Merrik Burrell, Bart	*Shorcham.*
George Granville Vernon Harcourt, Esq.	*Oxfordshire.*
Right Hon. Viscount Palmerston, G.C.B., K.G. . . .	*Tiverton.*
Hon. Henry Cecil Lowther	*Westmorland.*
Sir John Owen, Bart.	*Pembroke.*
Right Hon. Lord John Russell	*London.*
Right Hon. Edward Ellice	*Coventry.*
Right Hon. Sir James Robert George Graham, Bart. . .	*Carlisle.*
William Miles, Esq.	*East Somerset.*

[*The Schedule will then proceed in the order specified in Clause IX., with the names of all the candidates who have been previously members of the House, in their order,—and then with the names of the new candidates, also in the order pointed out in the same law.*]

Nothing that has been said of the utter insufficiency of our traditional system of election for the new circumstances of society in which we are placed, must be understood as being said in forgetfulness of the illustrious names which the House of Commons still enrols amongst its members. To deny that tribute to it would be not less absurd than presumptuous. No age is, perhaps, wholly without its distinguished men; and no one can doubt that this age has its share unless he obstinately closes his eyes against all evidence. Eminence is far more difficult to attain than in any former age,—but that eminence is still attainable we have brilliant examples. It is no slight testimony to the truth of the principle—that when the disturbing causes are removed the fittest representatives will be commonly chosen,—that, amidst all the existing difficulties, some men of the highest order yet find their way to Parliament, and command the attention and respect of constituencies, fitful though that regard and respect may be. It must not be forgotten, that there is scarcely a man, however distinguished, whose exclusion from Parliament has not been at some time attempted; scarcely a man whose admission, notwithstanding a life-long public service, has not, at some time or other, been doubtful. Neither must it be forgotten—especially upon observing the distinguished names which would appear at the head of a table, prepared according to the scheme that has been suggested—how much the existing representative assembly owes to the traditional system which prevailed in times anterior to the Reform Bill, and which is now either departing, or no more.

CHAPTER VI.

THE OBSTACLES WHICH DIMINISH THE NUMBER OF CANDIDATES.

In forming an assembly, consisting of nearly seven hundred of those persons in whom the people "may discern that predominant proportion of active virtue and wisdom, taken together and fitted to the charge, such as in the great and inevitable mixed mass of human imperfections and infirmities is to be found," every element of society requires to be laid under contribution. The State cannot afford to reject the services of any class, especially of any highly instructed class, amongst its sons. Observers of the progress of society have remarked that the more general expansion of literature and diffusion of knowledge, invaluable as they are, do not enlarge the proportionate number of men of great eminence; and that, in the production of such men, nature vindicates her exclusive prerogative. Civilisation multiplies in a vast degree those who read and deliberate, whilst it does not produce any greater number of leading minds. It should be a fundamental principle that all possible facilities should be given to persons of every class to offer themselves as candidates for the representation of any portion of their fellow-subjects. This principle is the only just foundation of the resolution of the House of Commons, which, on the 3rd of May, 1783, expunged from the journals all the declarations, orders, and resolutions relating to the election of Mr. Wilkes,

and declared the previous resolution of the 17th of February, 1769, that had "affirmed his incapacity to sit in that Parliament, subversive of the rights of the whole body of the electors of the kingdom." The expurgatory resolution has been supported on the technical ground of the omission, in the resolution of 1769, of the imputed criminality which was the cause of the expulsion;[1] but it does not rest on so narrow a basis. Every law which prevents the electors of the kingdom from choosing any man whom they may consider the most fit to represent them, is in effect the adoption of a principle antagonistic to and subversive of their rights. It may possibly be justified by expediency; but the cases in which that justification can be established are very rare, and would almost entirely disappear under such a system of representation as is here contemplated, in which every member would be chosen by a quotient or nearly a quotient of the electoral body, all the electors having, at the same time, a field of choice bounded only by the intellect, the activity, or the political ambition of the age in which they live.

The impediments in the way of candidates, and which, to an incalculable extent, diminish the number from amongst whom representatives must be chosen, may be classed under three principal heads: First, pecuniary, or obstacles interposed by the expenses, which are either lawful and inevitable, or otherwise generally regarded as necessary to success; secondly, those occasioned by the peculiarities and difficulties of the manner of communication between the candidate and the electors; and thirdly, the grounds of exclusion created by positive law.

In this kingdom a large number of persons qualified for political life by their studies and habits of thought, possess but small or very moderate fortunes. Of these many would be found who would not only willingly, but eagerly, devote themselves to parliamentary and legislative labours, without

[1] *Blackstone's Com.*, vol. i., book i., c. 2, p. 163; *Christian's* Ed., (n. 16.)

remuneration or reward. No country in the world is more rich in the classes willing to bestow their time and attention on public business. It is one of the wholesome fruits of our civil institutions, which, from parliament to the magistracy, and the jury, have called upon every order of the people to perform their several parts and duties in the business of the State. It is a remarkable proof of the extent to which we must have departed from those natural habits that adapt, with such wonderful accuracy, the means to the end, when not only is there small sign of any endeavour to call into activity all the latent energy and talent in the country, but rejecting and throwing aside, with a careless indifference, the materials which are ready to our hands, there are classes amongst us which seek to convert political labours into a trade, and seriously propose the payment of members of parliament by stipends from the State. Whether cases may not arise, of the possession or supposed possession of special qualifications by individuals who are personally in circumstances which incapacitate them from devoting their time to such public labours without some remuneration, and whether in such cases the constituency which they serve may not with propriety contribute to their support, is a different question.[1] Such a payment would be scarcely distinguishable from those cases in which the public have paid the debts, or provided for the permanent maintenance, of the families of distinguished public servants. Wholly different in principle and effect, would be any system calculated to make all parliamentary duties venal. There is great reason to apprehend that it would deteriorate the character of the representative body, as well as diminish the respect with which it is viewed by the public.[2]

[1] In an able article in the *Westminster Review*, on "Party Government," the writer does not appear to go farther than such a case as that above supposed, vol. xiii., N.S., p. 427. See also *Parl. Deb.*, vol. cxlix., p. 1034.

[2] On this point, see Mill, *Considerations on Representative Government*,

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The performance of parliamentary duties is proved not to be inconsistent with the contemporaneous prosecution of the most laborious avocations. A vigorous performance of the general business of life imparts earnestness to every occupation, and it is as belonging to that business that parliamentary duties are best executed. The constant meddling of a body of men, paid for making laws, and acting under the notion that they are bound to do something for their salaries, would in this country be intolerable; not to speak of the far more serious evil, in the diminution of that respect with which the House of Commons is now regarded. That professional labours of the most unremitting kind may be prosecuted without neglecting the duties of Parliament, is shown by the example of lawyers in extensive practice, and is proved by the amount of work—legislative, judicial, and of other kinds—which men like Lord Eldon, and others, before and since his time, have been able to accomplish. Few men would be found, whose services are of any value to the State, who would not be able to afford them without abandoning their other business and occupations.

If, on the other hand, the nation be served by its representatives without pecuniary reward, it should not require from them any pecuniary sacrifices which a prudent or an honest, and, it may be added, a comparatively poor man, is not in a condition to make. The representative house is the House of the Commons. The Commons are composed of all classes, rich and poor. The doors should be opened, to the extreme width of their portals, to admit the best and worthiest; and every impediment which clogs and obstructs their entry, is a mischief which ought to be swept away.

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c. 10, p. 217, 2nd ed. The rejection of the Bill which proposed the payment of salaries to certain peers, for the performance of their judicial duties in the House of Lords, was regarded with much (and not unreasonable) satisfaction by many, on similar grounds.

It is greatly to be feared that an opinion, or belief, exists, and is widely spread amongst the higher and influential classes, that by rendering parliamentary elections expensive, they confine the choice of the electors to persons of wealth; and that, in this restriction, there is some chance of security, which would not otherwise be obtained. The ready assent to the clause for legalising the payment of travelling expenses to county voters, was, there is no doubt, due to this feeling. It was not adopted from any regard for the voters: the kindness was intended to be shown to the wealthy candidate, for whom, in such cases, they would necessarily vote, rather than for him who should be indisposed to expend some thousands of pounds, and possibly embarrass himself and his family in the contest.[1] It is impossible to give credit to an affectation of regard to the hard case of a county voter living at a distance, and unable to pay the expense of coming to the poll, when it proceeds from the mouths of those who have not yet discovered the hardship of excluding the resident inhabitant, for whom Mr. Locke King has for several years vainly been seeking the franchise. If the aristocratical elements in the different political parties be actuated by a feeling such as this, they are under the influence of an error, than which none will be more fatal to their chief objects. Even if they succeeded in excluding all but the wealthy, the result would be only to raise up against themselves the most dangerous of all rivals. It is the wealthy demagogue, who, by availing himself of all the aids which money can give to indulge the follies or the vices of the electors, will command success. The making of political power, the monopoly or the spoil of the

[1] So long as the candidate himself, and the customs of the world seem to regard the function of a member of Parliament less as a duty to be discharged than as a personal favour to be selected, no effort will avail to implant in an ordinary voter the feeling that the election is also a matter of duty, and that he is not at liberty to bestow his vote on any other consideration than that of personal fitness."—Mill, *Considerations on Representative Government*, c. 10.

rich, under such a system as ours, will afford no security to the possessors either of wealth or of hereditary rank. By the infinitely various channels of acquiring wealth, the latter are exposed to an incessant irruption of fresh enemies, ready to avenge "the outrages of a rival pride, and exalt their wealth to what they consider its natural rank and estimation." Even if they were only opposed by fortunes of less recent acquisition, a political philosopher has told them, that "there are always, in that description, men whose fortunes, when their minds are once vitiated by passion or by evil principle, are by no means a security against their taking their part against the public tranquillity. We see to what low and despicable passions of all kinds many men in that class are ready to sacrifice the patrimonial estates, which might be perpetuated in their families with splendour, and with the fame of hereditary benefactors to mankind, from generation to generation. Do we not see how lightly people treat their fortunes when under the influence of the passion of gaming? The game of ambition or resentment will be played, by many of the rich and great, as desperately, and with as much blindness to the consequences, as any other game."[1] Nor can rank alone be relied upon as a protection. "Turbulent discontented men of quality, in proportion as they are puffed up with personal pride and arrogance, generally despise their own order. One of the first symptoms they discover of a foolish and mischievous ambition is a profligate disregard of a dignity which they partake with others." "Confounded by the complication of distempered passions, their reason is disturbed, their views become vast and perplexed; to others inexplicable,—to themselves uncertain. They find on all sides bounds to their unprincipled ambition in any fixed order of things. But in the fog and haze of confusion all is enlarged, and appears without any limit. When men of rank sacrifice all ideas of dignity to ambition without a distinct object, and

[1] *Appeal*, &c., p. 134.

work with low instruments and for low ends, the whole composition becomes low and base."[1] Experience teaches that none of these factitious aids can supply the want or fill the place of wisdom or integrity, and that these qualities are as likely to be found under circumstances fitted to call them forth in one rank or condition as in another. The true interests of all classes, the highest as well as the lowest, would be best consulted by opening the avenues to the House of Commons, and collecting within it the best that the nation possesses of ability and character. This may be prevented, but will never be assisted, by adding conditions which insure neither the one nor the other. The prudent man, indisposed to risk his patrimony on a game of chance, too conscientious not to respect the claims of family, and the regard which he owes to those who are dependent upon him,—is entitled to greater confidence than one who is reckless of his own fortune, or is trafficking with that of others; yet by rendering political competition a source always of indefinite, and often of ruinous, expense, the latter is admitted, and the former excluded.

The charges, which it is absolutely necessary that a candidate should incur, ought not to exceed a sum sufficient to prevent any trifling or idle experiment, whereby the lists of candidates might be encumbered with the names of persons who can have no rational expectations of being usefully placed in nomination. For this it is proposed to provide, by requiring a preliminary payment to the Registrar,[2] which shall exonerate the candidate from all liability in respect of any further expenses, except such as he may voluntarily incur. Such voluntary expenses will of course, as now, vary according to the peculiar circumstances of every candidate. They will probably be in the inverse ratio of his political eminence and distinction. Men of high character and reputation, and those whose political conduct and discretion have been tested and

[1] *Reflections*, &c., p. 70.

[2] Clause VII., p. 95, *ante*. The sum there suggested is £50.

proved by experience, would stand in need of no more than that announcement of their names which the Gazetted list would publish. A man of less distinction might require something more; possibly the charges of some public meetings, and of advertisements or printed addresses, declaring his general views on political questions. This, perhaps, would be less necessary, if the candidate were a person of any mark in literature or science, and had in his previous career become known to the public. Those who would probably be compelled to spend most, would be the persons who have the least to recommend them besides their money.

The following clause would relieve the candidates from all necessary expenses, except the payment which it is proposed shall be made to the Registrars:—

X. All expenses of the erection or hire of hustings, booths, or polling-places, and the wages of clerks and officers, and the travelling expenses of the clerk in conveying the voting papers, where the same shall be necessary, to the office of the Registrar, so far as respects all existing constituencies, shall be borne by the several constituencies respectively, and shall be paid out of the county, borough, or parochial rates, or other funds, upon which the registration expenses have heretofore been or shall hereafter lawfully be charged; and as to all constituencies which shall hereafter be constituted, all such expenses shall be borne and paid in such manner as shall be directed by the order of Her Majesty in Council, constituting the same; and the sect. 71 of the stat. 2 Will. 4, c. 45; sect. 40 of the stat. 2 Will. 4, c. 65; and sect. 88 of the stat. 2 Will. 4, c. 88, are repealed.

It has been well said that the remedy for bribery, under whatever form of temptation, is to be found, not in penal laws, but in taking from one side the disposition to give, and from the other the willingness to receive bribes. It must be sought for in a consideration of the motives which ordinarily govern the conduct of mankind. The causes of bribery, and especially those causes to which most of its virulence and nearly all its public evils are owing, are not difficult to discover; and once discovered, it will be found that they are not difficult to remove, so far as they stand in the way of the

candidature and success of the men whose access to the House it is most desirable to promote; and so far also as it affects the electoral power and influence of those voters who desire to act honestly. They proceed from the same vice in the electoral system which deprives it of the salutary influences of honour and conscience. They are mainly caused by the bond which the law creates, and by which every constituency is inseparably connected together. The success of the candidate is forced to depend, not upon the votes of a competent and adequate number of his fellow-countrymen, but upon the votes of the electors who are placed within a small geographical limit. What is the necessary consequence? It is, that a certain number of votes, within that limit and no other, are made absolutely indispensable. The electors of the district or borough are first nominally or really divided into two parties, by the process of crushing all the minor differences and distinctions of thought and opinion. The hopes of each candidate depend upon the triumph of the party to which he belongs. They may, probably, from their connexions or reputation, reckon upon many votes being freely given to them. We will suppose the voters to be in number 2000, and of these, the class which has had no voice in bringing either candidate to the borough, having no sympathy with either, and, therefore wholly indifferent, and taking no part in the election to be 400. One candidate may, from the result of his canvass, expect 600, and another about 500 of the votes which are given spontaneously. There remain the residuum of 500, to be worked upon by appealing to their cupidity, their hopes, or their fears. Are not the causes of bribery, of intimidation, and of every other evil influence, plainly developed? We have given to the votes of a comparatively few of the electoral body, and these the very worst and the very poorest,—the worst who are not always the poorest, and the poorest who are far from being the worst,—a highly artificial value. It is a value to which no market

price can be assigned. It is not measured by the general value of a vote; it is the special and inestimable value of those particular votes,—votes for which no others can be substituted,—for the want of which the support of all the wisdom of a senate cannot compensate. It is the *pretium affectionis*. Like the uncertain and fabulous value of a matchless painting, or work of art; or like the passion of love, which fills the mind and renders the creature of its regard the sole object in the world worthy of desire,—the voices of the small number of electors, on whose support the candidates may rely for their success, become more and more priceless, as the event becomes more and more critical and capricious. If the system—which is the result of accident—had been framed for the very purpose of giving full scope and encouragement to corruption, to provide opportunities for tempting and gratifying the needy and the base, it is scarcely possible to imagine that it could more effectually have completed the design. It is in the highest degree unjust towards the poorer electors to expose them to such influences as these. It cannot be expected that a small tradesman or artificer, labouring with difficulty to procure a subsistence for himself and his family, can reject a gift which is, perhaps, equal to his honest gains for a month. He sees no example of that self-abnegation on the part of men around him, much more wealthy than himself. It is not in the nature of things that he should rise above the temptations to which his neighbours generally succumb.

If the vote of every elector throughout the kingdom had, at all times, the same weight and the same value as a free electoral system would give to it, all these overpowering temptations would necessarily cease. No arbitrary or artificial importance would attach to the vote of any particular man; and any elector who would put a price upon his vote must deliberately seek a market in which he can dispose of it. The number of the bribed would be reduced to the compara-

tively few in whom the disposition to be corrupt is owing if not to an innate depravity, at least to an indifference to, or a want of, conception of the public good, accompanied by a disregard of their own character in the estimation of their neighbours.

It is not to be supposed that corrupt motives and objects will be wholly extinguished in the political conduct of any class of men by any system of things. So long as a seat in the representative assembly of this country shall be one of the highest distinctions which the people can confer—and long may that continue to be so—there will be found men ready to make great pecuniary sacrifices to reach it. In every county or town, no doubt some men will be found ready to sell their votes; and no commodity is so vile that it has not factors and dealers engaged in the traffic. If a wealthy and obscure candidate has to collect two thousand votes by this means, he is not likely to pay any considerable sum for each vote; and the members who thus obtain their seats, whether they owe their wealth to success in trade or speculation, or to inheritance, will probably have had advantages of experience or of leisure which will render them not inferior in sagacity to the average of those who now fill the House, and they are not likely to act less on their independent judgment. A member elected by these means, if he be actuated by a generous ambition, may still show by his public conduct that he is not unworthy of the position he has gained, and may at a future election deserve and obtain the support of independent men. In the mean time, in representing those alone who have voted for him, he neither prevents nor interferes with the representation of any earnest or virtuous elector; and the evil of bribery has been thus reduced to its minimum.[1]

[1] If we suppose 100 members to find their way into the House, at every general election, at the aggregate cost of half a million, and the other 558 to be elected by the spontaneous support of their constituents, undisturbed

The operation of the same system which would go so far to extinguish bribery, would also go equally far to put an end to every kind of intimidation, and other unjust and improper influences. The entire disease derives the whole of its malignity from the same cause—the fact that certain particular votes, and these votes only, are made indispensable, and are, therefore to be obtained *per fas et nefas*. To the same cause all the sacrifices of truth, of justice, of honour, and of decency, are due. Nothing is so sacred that it may not be trampled upon in a struggle which waxes more intense as it draws towards its end. The candidates become like gamblers, spurred on by the recollection of what they have already lost, and ready to peril all that they still possess upon the last stake. Such struggles serve but as excitements to morbid satiety. A Duke of Norfolk is reported to have said, that to stand a contested election for Yorkshire and win it by one, was the greatest enjoyment in life; a sentiment, which, we are told, is "thoroughly English, and to be relished only by freemen!"[2] With all admiration for those manly enjoyments which are a feature of English life, it may be permitted to an Englishman to say, that there are some things too serious to be made a game. Those who have degraded the tone of political morals, treated the most solemn duty of social life as a sport, and delighted in the satire of representation exhibited by the spectacle of the political extinction of

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by the votes which have been bought,—the public evil would be comparatively insignificant. The persons who have accepted payment for their votes will probably, in view of the national interests, have exercised their powers by voting for members as competent as they would be likely under any circumstances to have chosen. The main current of political life has at the same time been purified. In every constituency the corrupt element has been drawn off, and the better electors are no longer injured or deprived of their just influence by the conduct of the worse. In the words of a social philosopher, it is then "only the worst people who fall into the worst ways."

[2] *Quarterly Review*, vol. cii., p. 32.

twenty thousand voices, have certainly done their part in teaching the people to abuse their political powers and despise minorities. Be sure that the sins of a nation, and of a class, will find them out.

Great as would be the national gain, from the extinction of the corrupt and illegitimate influences which now preside at elections, the benefit of the proposed system would be infinitely more extensive, in bringing into action all the better and more generous motives. It would not only depose vice, but it would set up virtue in its place. The support which is rendered to a candidate, by the admirers of his character and political principles,—instead of being as it now is, from its absolute necessity, regarded as a favour of inestimable personal value, which the candidate is scarcely ever considered sufficiently to repay,—will become a voluntary and disinterested service. The electors will know that their support is not necessarily indispensable, and that the candidate may be returned by the votes of other constituencies; and this knowledge at once reduces the artificial and conventional value of that support to its just dimensions. The candidate and the electors are, by the present system, placed in a false position. Many of the electors are made to be mercenary in their conduct, by the very fact that their individual aid is of the greatest moment, whilst, if that were not so, they would voluntarily render to the candidate the same, or more hearty, assistance, from their attachment to his sentiments and opinions. The judges who sit in our Courts of Equity, and have occasion rigidly to scrutinise the motives and conduct of men, frequently meet with examples of the difficulty of blending together two motives, one generous and the other venal. The lower impulse is invariably destructive of the higher. Respect, admiration, and attachment, are unbought homage. The zeal and industry which, if it had not been diverted from its natural course, would have been freely devoted to uphold some public principle, is, owing to the price attached to it, perverted to

private and selfish objects. If any man doubted the consequences of grafting upon a holy impulse a venal motive, he might try in his family the experiment of repaying the offices of affection by pecuniary reward, and learn how the tribute of filial duty may be converted into a mercenary service. You cannot serve God and Mammon.

The manner in which candidates are often required, especially at the first, to enter into a communication with their constituents, a manner which is not likely to be altered for the best under any of the changes which are popularly urged,—forms the second of the practical class of obstacles. Enough has been already said on the nature of the preliminary introduction, which too commonly takes place, and is becoming general. Supposing that stage to be passed, the process of canvassing forms an insurmountable difficulty to many men. It is not, necessarily, from any fastidious taste that this objection is felt; though, even if that were so, it is not wise by making such a method of introduction commonly necessary, to exclude the services of one who might, nevertheless, prove qualified to be a public benefactor. A man of a well-constituted mind shrinks from affecting what he does not feel,—from concealing any particular opinion that might be unpopular,—from pretending to assign undue weight to matters which he knows to be trivial,—from, in fact, inaugurating his entrance into public life, by acting a part which is not his own. He is under the necessity of resorting to underhand and disingenuous contrivances,—to humiliating solicitations and mean compliances. It is impossible to read the narratives of the skill and success of men accomplished in the art of canvassing, without feeling that the affectation of friendship, cordiality, and regard,—which are set to work on the simplicity and credulity of the voter, to cajole and surprise him of his vote,—has a family resemblance to the tricks which, when employed by humbler performers for the purpose of depriving a servant-maid of her earnings, or a countryman of

his purse, are considered to be fitly rewarded by a sojourn in the oakum-yard or on the treadmill.

All these petty degradations are but the interludes of the play which the candidate is required to go through. He is to utter whatever may be the shibboleth of the hour. Instead of a candid examination of public affairs, he must deal with every subject in such a manner as to suit the prepossessions of his hearers. Rare are the cases, and eminent must be the man, who dares to appear as he is, and speak as he thinks on public questions, before those whom he addresses, and hopes to enlist in his support. Perhaps scarcely any young politician, at the entrance of his career, could venture upon such candour;—supposing, of course, a time in which nomination boroughs do not exist. He must be initiated into political life by a discipline in deception. He must often, to please some men, approve of—or, at least, countenance—bigotry; and if he does not positively encourage, he is obliged to wink at, corruption, intemperance, and deceit; or shut his eyes to what he knows is taking place. In addition to this, he may be driven to competition in promises which he is aware cannot be performed. The whole process is demoralising, and tends to exclude some of the best men, and the most scrupulous and trustworthy order of minds. "Happy is he who holds that, for a public man, the first condition of capacity to serve his country is an unsullied conscience, and who, when he sees national advantages seemingly contingent upon his own moral contamination, trusts that God will raise up instruments to secure for his country all necessary goods of earth, and refuses to sell wisdom though it be for rubies."[1]

The liberation of individual electors from a compulsory union with others would enable a candidate to discard all mean and dishonest compliances, and frankly to express his sentiments, whatever they may be, relying with confidence that the kingdom contains electors enough who agree and

[1] *Gladstone, The State, &c.*, vol. i., p. 127.

sympathize with him, and that he may dispense with the votes of those who do not.

The choice of the electors is not only restricted by the practical difficulties which thus exclude the vast majority of those who might otherwise be candidates, but it is also further restricted by legal grounds of exclusion. Special Acts of Parliament, all of which are of a date subsequent to the Revolution, incapacitate the holders of a great number of offices from sitting in Parliament.[1] These provisions might have been useful, as temporary measures, to meet a temporary evil—a system of representation avowedly rotten, which placed the electoral power in a few hands—but they are utterly unsuited and obstructive when they are allowed to encumber the action of a numerous and free constituency.

The late debate on the propriety of excluding the members of the Indian Council from seats in Parliament afforded satisfactory evidence of the progress of public opinion on this subject.[2] Nearly every member who addressed the House on that occasion, except the minister who had the conduct of the bill, and could scarcely be expected to abandon the clause, either opposed, or doubted the propriety of, the exclusion; and Lord Stanley expressed himself in the most guarded manner, referring to the exclusion of classes as a *fact*, and to the policy as a supposition; and he relied chiefly on the special and novel circumstances of the Indian Council. Lord John Russell affirmed the general and true principle, that "without a strong necessity, they would not say to the

[1] See 1 *Black. Com.*, p. 175. The following list comprises the principal disabling statutes before the Reform Bill:—5 W. & M. c. 7, s. 57; 11 & 12 W. 3, c. 2, ss. 150, 151; 6 Ann. c. 7, s. 25; 41 Geo. 3, c. 52; 3 Geo. 4, c. 55, s. 14; 10 Geo. 4, c. 50, s. 21; 10 Geo. 4, c. 62. Several others have been passed since. It has been common to introduce such clauses in Acts for administrative purposes. It displays a cheap disinterestedness,—at no cost but that of the rights of the electors, and possibly of the efficiency of Parliament,—a cost which is not felt.

[2] *Parl. Deb.*, vol. cli., p. 785.

electors, 'Here is a man you desire to elect, but there is a law which restrains you from so doing.'" Lord Grey has also pointed out the advantage of having in Parliament the aid of men engaged in official life.[1]

It can scarcely admit of doubt, that, on principle, no person should be excluded from the House of Commons on the ground of any official employment, unless there be an absolute incompatibility between the respective duties—as, for example, it would be impossible that a clerk of the House should be at the same time a member, from the impossibility of one man being at the same time both master and servant. The judges of the common law are said to be excluded because they sit in the Lords' house; which does not apply to the judges in Chancery. It is a mistake to reason upon the fact of a judicial officer having in his personal capacity a seat in the legislature, in which he only takes a part with many others, as if it were open to the objection of combining and confusing the legislative and judicial power. The person may officiate in both capacities without any blending of the power. Lord Eldon would at all times have felt as clearly his duties in the House of Lords as in the Court of Chancery, and never could have confounded one with the other. The administration of the laws affecting public liberty may distinguish the position of the judges of the superior courts from all other persons, but the distinction is by no means clear.

A general and uniform principle should be adopted as to every public officer not excluded by evident and strong necessity. If, after the possession of office had been declared and known, a numerous and free constituency choose him as their representative, there ceases to be any foundation on public grounds for the policy which would exclude him. Nothing but the absolute inconsistency of the several duties should be

[1] *Parliamentary Government*, p. 172, 1st ed.: p. 301, 2nd ed.
[2] *Westminster Review*, vol. 13, N.S., p. 418.

admitted as sufficient. The House has ample power to compel the attendance of its members for the performance of their parliamentary duties; and if that attendance should interfere with their official labours, it will be for those who superintend the latter duties to complain. The public would approve and applaud the act of any minister, who for such just cause, and fearless of any slander of his motives, should dismiss a public officer, notwithstanding his position in the House. Considerations of this nature are too minute to be made the basis of general legislation. They must, like the current of events, be left to the solution of time and circumstance. Parliamentary annals furnish an example of a Cornet of the Guards, who, deprived of his commission for his opposition to the minister, became, therefore, not less useful to the people, and found no scanty indemnity both in honour and in fame.

XI. All enactments, whether general or special, which incapacitate any person from being elected or from sitting in Parliament, or which impose any penalty or penalties for so doing, on the ground that such person holds any office or offices which he held at the time of his election, and stated in his declaration to the Registrar,[1] are repealed.

Another excluded class are persons in holy orders. The circumstances under which the statute[2] establishing this restriction was, little more than fifty years ago, carried through Parliament by a minister whom history has not placed in any very elevated position amongst statesmen, are well known. The most attentive perusal of the debates will fail to discover the shadow of a reason for the exclusion. The bishop of Rochester adverted to what he thought the only ojection; the unbecoming nature of our electioneering system, which, as has been stated, would form more or less a difficulty to all scrupulous men, "the means by which candidates were obliged to seek admittance into the lower House, such as opening houses of entertainment, and truckling to

[1] Clause viii., p. 96.

[2] 41 Geo. 3, c. 63.

every voter."[1] These obstacles are wholly taken away, when every vote is converted into a spontaneous tribute to the qualities and attainments of the person for whom it is given. The prelate, in his speech, repudiated the notion of any incompatibility between the studies or duties of a divine, and those of a representative of the people. He pointed to the names of Usher, Pearson, and Barrow, as examples to the contrary, and urged, that divinity, as a science, was intimately blended with the principles of political justice, of morality, and the laws of nature and nations. The bill was characterised by Lord Thurlow as a bill of disfranchisement. It was, in truth, an attack on the rights of every elector in the kingdom. Lord Eldon, who supported it, like a skilful advocate, ingeniously endeavoured to divert the argument and rest the question upon another issue, by introducing a discourse of great learning to prove the indelibility of orders, a point which had nothing whatever to do with the matter in discussion. The only true explanation of this remarkable and unjustifiable law is that which was given by the immediate object of it. Horne Tooke said, "deacons and priests had sat in Parliament for more than a century, but at last one got in who opposed the minister of the day, and then Parliament determined that there should no more be any deacons and priests admitted amongst them."[2]

Nothing abstractedly could appear more unreasonable than the exclusion of a set of men whose education and functions necessarily point their attention to the greatest subjects that can occupy the thoughts of men, and whose habits and duties moreover bring them into communication with every phase of society, and especially with the poor, whose interests require the closest, the most attentive, and the most practical consideration. That the effect of local isolation, of too

[1] *Parl. Hist.*, vol. xxxv., p. 1547.

[2] *Lord Holland's Memoirs of the Whig Party*, vol. i., p. 180. See 1 *Black. Com.*, p. 175, n. (37); *Christian's* Ed., Lond., 1809.

exclusive an application to the same train of thought, and a want of acquaintance with secular affairs produce, in many cases, narrow views of men and things, may be admitted, although it is, perhaps, too strongly expressed in the well-known apophthegm of Lord Clarendon; but this forms no ground for the exclusion of the class, and has never been put forward as being so. It must be always recollected that the present proposal is to require about 2000 electors for every member, and if 2000 electors concurred in the choice of a minister of religion, he is not likely to be amongst the least gifted of his order.

In the great questions which arise in Parliament affecting religion and the Church, it would be in the highest degree desirable that one or two ministers of every persuasion should be present, and enabled to take part in their discussion, rather than that all such matters should be left to laymen ambitious of a dilettante degree in divinity. The more exaggerated types of every theological doctrine will be found, not amongst its ordinary teachers, but amongst its heated neophytes. These are the men who embitter discussion, exasperate differences, and regard all moderation as treachery to their cause. The true principle of representation, consistently applied, would enable every religious body, clerical or lay, to put forward as their organ whomsoever they may deem to be the best fitted for the office. Interest and feeling will alike prompt them to select the most able and accomplished exponent of their opinions to fill the important trust. The tone and temper of the lower House, in dealing with subjects in which the relations between public law and national worship are in controversy, would be in no slight measure improved, if, without lessening all becoming zeal, the presence and example of the Christian minister should, to that zeal, add some portion of charity.

XII. The statute 41 Geo. 3, c. 63, and sect. 9 of the stat. 10 Geo. 4, c. 7, are repealed.

In order to remove every impediment, technical or otherwise, to the possible election of any man whom the quotient of the electors may choose, the case of returning officers should be provided for. These would together form a body of five or six hundred persons, or perhaps more, all of them of some eminence in their localities. The materials of which the representative assembly is composed, are "of ten thousand times greater consequence than all the formalities in the world."[1]

XIII. If any person who, by virtue of his office, may be the returning officer in any election, should be a candidate at such election, it shall be lawful for such returning officer to appoint an assessor to act in his stead, and the said appointment, when confirmed by the Lord Lieutenant of the county in which such constituency shall be situated, or by the sheriff of the said county or city, or by any three magistrates for the same county, city, or borough, shall be effectual, and the certificate or return of such assessor shall be valid, as if the same were made by such returning officer.

The accumulation of exclusions which has been so inconsiderately created or allowed, is not excused or palliated by saying we have nevertheless done very well. The repeated amendments which almost every legislative Act requires, and a vast amount of costly experience, prove that many things are done very ill. In administrative subjects much of our legislation egregiously fails. New machinery is constantly erected to effect the same or some of the same objects, for which old machinery is already applicable, and then the double powers are left to conflict with and impede each other; and the expenses of the establishment go on increasing far beyond what is needful, and out of all proportion to the work which is accomplished. It is impossible to calculate the mischief occasioned by the loss of any useful legislative element which is shut out.

All such prospective and exceptional legislation, dictated, as it is vainly imagined, by a far-sighted wisdom, and in-

[1] *Reflections*, &c., p. 58.

tended to produce, by some recondite operation, a contingent good, is an attempt to accomplish objects which exceed the powers, and are beyond the province of legislators. If they have any immediate effect whatever, it must be that they produce inconvenience, and therefore peril, with scarcely the remotest probability of effecting any good. It partakes of that meddling legislation, of which our statute-book is a remarkable monument, that presumed to teach men the manner in which almost every action of life should be performed. The Parliament thought it knew better than the people themselves where they should live, and what rents they should pay—what labourers they should hire, and what wages they should pay—how they should make, and measure, and wear their clothes—how they were to pack their fish,[1] how their beer was to be brewed, and the barrels made to put it in[2]—what they should pay for their candles,[3] and how their beds and bolsters should be stuffed[4]—a legislation which permitted its subject to be neither the regulator of his own actions nor the keeper of his own conscience.

[1] 22 Edw. 4, c. 2. [2] 35 Hen. 8, c. 8. [3] 11 Hen. 6, c. 12.
[4] 11 Hen. 7, c. 19: 5 & 6 Edw. 6, c. 23.

CHAPTER VII.

THE ACT OF VOTING.

In nearly every scheme of electoral amendment that has been suggested, one part of the proposal has been to substitute a documentary form of tendering and receiving the vote, in the place of the oral form.[1] In the present plan it is proposed that the vote shall be given in the shape of a document, to be deliberately prepared and signed, and (except in some special cases, which will be the subject of a distinct chapter) personally delivered by every voter at his proper polling-place.

It will be remembered, that the system now suggested contemplates the necessity of a certain quota or number of votes for every candidate, and renders more than that number unnecessary. If, therefore, a popular candidate should receive, as is most likely to be the case, the suffrages of a very much larger number of electors than the number of the quota, it would follow that the excess of votes would be lost, if means were not provided for enabling the electors to transfer their votes, on that contingency, to some other candidate. The plan, therefore, would be incomplete, if it did not enable every elector to provide for such a contingency, and enable the vote to be transferred, as the elector shall direct,—if he shall think proper to give any such direction,—from one candidate to another, until it reaches a candidate whom the

[1] This has been adopted for the Universities by the stat. 24 & 25 Vict., c. 53. (Note to the 3rd ed.)

elector has named, who shall require the vote to make up his quota; and with whom the vote therefore rests. In order to give to the elector the option and the means of thus transferring his vote, the form of the document must enable him to vote, as he now can, for the single candidate, whom he may select, or to go on further, and provide for as many contingencies as he may think proper, within the scope which the gazetted lists allow him. It will be found that such a power is not only convenient and necessary for its immediate object, but that it is calculated to be of vast benefit in other respects, especially that of bringing to the duty of voting reflection, judgment, and moderation.[1]

In setting out the form of the voting-paper, it is scarcely necessary to state that no vote can be ultimately effectual for more than one candidate. The inconsistencies and absurdities of our system of election, both for parliamentary and local councillors, have been lately pointed out.[2] They have been the growth of chance and accident, and caused by the inevitable absence of any presiding design. The number of members for whom one vote may be given, on a parliamentary election, varies, in different places, from one to four. Whatever the franchise may be, whatever may be the direction in which it is extended, it should be a canon of the reform, that when the franchise is conferred,—the right of assisting in the appointment of a representative once given to any individual,—the value of his single vote, wherever be his dwelling, or his property, shall be the same as that of every other vote. There is nothing in the accidental circumstance that an elector resides, or has property, in a county, or city, or town represented by a plurality of members, which should

[1] In a paper on the University Election Act, in *Macmillan's Magazine*, Feb. 1862, p. 298, I have shown that an addition to that measure, rendering each vote available for no more than one candidate, and giving the contingent form of vote as above explained, would have made the scheme perfectly just, and (with some minor improvements) complete.

[2] *Edinburgh Review*, vol. c., p. 226.

entitle him to vote for more candidates than if he lived in a place which returned only one member. There is sufficient reason for giving a great community more weight in the Legislature than a small one; but there is no reason why a single elector, dwelling in the great community, should have more weight than a single elector in the small one. It may be answered, that, in truth, he has not any greater weight, because from the number of voters his share in the two or three members is less. A voter in London, or Finsbury, has infinitely less weight than a voter in Ashburton. It is true, we give him a small right—or, rather, the semblance of a right—and take away the large, or substantial, right. We give him an apparent power of choosing two or three members, but clog its exercise with so much dead weight, that he has, probably, no voice in the selection of any. He has the shadow, and not the substance. But this is also wrong. He is not entitled to greater political weight, and neither should he have less. It may better reconcile some persons to this rule if they know that in the United States no vote can be given for more than one member of the House of Representatives.

The present franchise admits of more than one vote being possessed by the same individual. One man may be an elector in several counties. The power of giving more than one vote may, possibly, in certain special cases, be extended if a new educational franchise be conferred. A plurality of votes necessarily multiplies the political weight of the elector. That is a different point; but there is no ground at this day for permitting any of the accidental circumstances of place to give to any *single* vote greater value than any other vote; nor can it be pretended that the diversity answers any good purpose, either for the public or the objects of party or class; and so long as it exists, the representation will not stand on a satisfactory, and, therefore, secure basis.

The proposed form of voting does not in the smallest

degree perplex or complicate the business of voting, so as to raise it beyond the power of any elector of the humblest ability and education. It will be seen, that it does not even require that he should be able to write, for the voting-papers may be supplied in a printed shape, with spaces for the names, prepared in such a manner that the name of the candidate may be cut from the gazetted list, and affixed adhesively to the voting-paper, and the signature may be taken as that of a marksman, by the poll-clerk. Affixing the printed names in the manner of postage stamps would be very likely to be adopted by many persons, as at once easier and more legible. The scheme, therefore, involves no difficulty to any elector, for however imperfect his education may be, he would be as competent to vote as he is at present.

The law regulating the form of voting may be thus expressed:—

XIV. Every vote shall be given on a document setting forth the name and address of the elector, his number on the register of electors, and the name of the candidate for whom the vote is given; and if the vote be intended, in the events provided for by this Act, to be transferred to any other candidate or candidates, then the names of such other candidate or candidates must be added in distinct numerical order in the form following, viz.

Name.

Address.

Vote, No. Parish of Borough of

The above-named elector hereby records his vote for the candidate named first in the subjoined list, or in the events provided for by Statute for the other candidates successively, in their numerical order, viz:—

1		9	
2		10	
3		11	
4		12	
5		13	
6		14	
7		15	
8		16	

et seq.

In the first, or if the elector approves of more than one candidate, then in the succeeding blank spaces opposite the several numbers on a form similar to the above the elector will insert the name or names which he adopts. The candidates for his particular constituency will be made known to him, as now, by such written or personal addresses as those candidates may think proper to make; and, in addition to that which he has now, he will then have a schedule furnished to him, containing the names, not only of the candidates for his own particular constituency, but of the candidates for all the other constituencies in the kingdom. This list it is entirely at the option of the elector to make use of or not; in his determination as to that, he may be guided by his education, by his knowledge, by his opportunities—by the interest which he takes in public matters, in the well-being of his town, or in the welfare of his country. If he does not

or cannot, from the limited extent of his education or any other cause, make use of the information which is supplied to him by the gazetted lists, as an aid in the performance of these great and solemn functions which his country has entrusted to him, he will still have, in every respect—to the smallest particle—as much power in the exercise of his franchise as the existing system, or any other which has been proposed, can give him, having due regard to the equal and rightful power of other electors. He will have more of the just power of doing right, for the system here proposed would relieve him of far the greater part of the temptation which may be at present brought to bear on his hopes or fears, to induce him to swerve from what he may consider that he ought to do.

In striving to render the act of voting a solemn and deliberate act, we pursue an object which the greatest, the best, and the most scrutinising minds, who have directed their thoughts to political subjects, have always regarded as of paramount importance. To whatever state of political society we look, whether to the present age or ages long departed, we find the same prevailing idea, that political security and happiness depend on the degree in which the votes of a free community are regarded as serious and sacred things. Mr. Grote, in developing the institutions of that people with which his labours have so indissolubly connected his name, describes it as a subject of just admiration, that they "surrounded the delivery of the popular judgment with the best securities for rectitude, and the best preservatives against haste, passion, or private corruption."[1] Mr. Burke proclaims the foundation of the same great principle—"All persons possessing *any portion* of power ought to be strongly and awfully impressed with an idea that they act in trust, and that they are to account for their conduct in that trust to one great master, author, and founder of society. This principle

[1] *History of Greece*, vol. iv., p. 209.

ought to be more strongly impressed upon the minds of those who compose the collective sovereignty, than upon those of single princes."[1]

The power given to the electors, first by the information which the gazetted lists afford to them of the persons who are candidates for the representation throughout the kingdom, and, secondly, by the opportunity the voting papers afford of separating, distinguishing, and bringing out every form and shadow of political opinion, will give an immeasurable increase of force and strength to the true representative principle; and it will, at the same time, wholly extinguish the operation of the pseudo-principle of representation under which nations have suffered, and by which they are obstructed in their progress towards settled constitutional government. "In the present state of our knowledge," a late writer has observed, "politics, so far from being a science, is one of the most backward of all the arts;"[2] and certainly nothing can well be imagined more resembling a condition of barbarism than a parliamentary election. Five, ten, or twenty thousand men, comprising every diversity of education, of thought, of moral quality, and of mental endowment, are called together to elect one or two persons to represent them. If they were only, as in old times, delegates, to grant "a tenth or a fifteenth" for a foreign war, the representation might be sufficient; but a representation so created at this day, with all the varied questions which are opening and agitating mankind, is a simple impossibility, and the name is a delusion. We are rejecting the aid of letters and the facilities of locomotion, ignoring the popular intelligence, and obstinately resolving to subject ourselves to the same difficulties as our ancestors struggled with when they had no roads to travel on, when not one in a hundred had learnt to read, and not one in a

[1] *Reflections*, &c., p. 138. See *Mill, Considerations on Representative Government*. Ch. II., iii.

[2] *Buckle's History of Civilisation*, vol. i., p. 458.

thousand nad any book or manuscript to read, if he had learnt. It is plain that as the intelligence of the country has advanced, we have been receding from anything like a real representation, because it has become every year less possible for the rude forms of an earlier age to convey the varieties of expression that have in modern times been called into existence. It is no answer to say, that if we have not had representation, we have had something that has done as well,—if it has not been actual it has been "virtual." The question is, whether we are to proceed towards a system of representation, or towards something else—not representation, but a substitute for it. It is a question which every one should present to himself before he begins to reason on the subject of parliamentary reform, as the whole tenor of his argument will be necessarily governed by the answer.

The fundamental law of election, M. Guizot states to be "que les électeurs fassent ce qu'ils veulent, et sachent ce qu'ils font."[1] In the intelligent performance of the act of voting, the elector will necessarily have some preparatory knowledge, some inclination of mind, some train of thought, or some calculation of interest, disposing him to prefer one or more persons to others. The causes of the disposition are of course almost infinite. It would be useful, if it were possible, to consider them, and their operation upon every class of mind.

The conclusions which are founded upon personal knowledge—that is, by knowledge acquired by intimate personal acquaintance and contact, must be very rare—so rare, that with reference to the great body of the electors of the kingdom, they are scarcely deserving of consideration. Knowledge of this kind of course exists somewhere as to every man, but can extend only to a small circle. In that extent this knowledge as to new candidates will of course be of great value. In a former page, the effect of giving a separate

[1] *Guizot, Gouv. Rep.*, vol. ii., p. 247.

electoral existence to every university, college, inn of court, scientific association, or other body possessing especial advantages in point of instruction or knowledge, has been adverted to as an encouragement to such bodies to put forward and recommend their most highly qualified members.[1] "Pour trouver et obtenir les hommes les plus capables, il faut obliger ceux qui c[illegible]ient ou qui prétendent l'être, à prouver leur capacité, à la faire reconnaître et proclamer par les hommes qui, à leur tour, sont capables de porter un jugement sur ce fait-là, c'est-à-dire, sur la capacité individuelle de quiconque aspire à être député. Ainsi se constate le pouvoir légitime, et c'est ainsi que, dans le fait de l'élection philosophiquement considérée, ce pouvoir est pris par ceux qui le possèdent, et accepté par ceux qui le reconnaissent." [2]

It is probable that to introductions by the smaller constituencies, especially where they are composed chiefly of highly instructed persons, many candidates would be indebted for their entrance into public life. There are great numbers in the country who would receive such testimony with respect. Many would act upon recommendations coming from bodies or single persons with whom they sympathize, and whom they could trust. This kind of information, although it originates in personal knowledge, is not, as to the electors to whom it is addressed, more than "hearsay," but as such they will, as all persons dealing with such evidence must do, attribute to it the degree of weight which they believe to be due to the quarter from whence it comes. Reliance on the advice or the testimony of others in whom the electors may confide is no improper guidance. Everything that contributes to establish a basis of political faith or trust, introduces a valuable element, and one which deserves to be cultivated rather than discouraged.

It is also material to observe on this point, that, whilst the present system induces a candidate—except in the case of a

[1] Supra, p. 56.

[2] *Guizot, Gouv. Rep.*, vol. ii., p. 254.

majority so compact as to be enabled wholly to despise and contemn the minority—to suppress and conceal some of his opinions, lest he might lose votes by his candour, in the proposed method of introduction every candidate will be encouraged to express himself fully and distinctly, in order that he may be perfectly comprehended by minds in sympathy with his own. Such candid explanations will have both an affirmative and a negative effect. Every elector will learn with more exactness who are those with whom he can more entirely agree, and with whom he totally disagrees. The encouragement afforded on all sides to truth will immensely increase the value of the evidence as to the real character and opinions of all who present themselves.

When population was scanty, and most of the burgesses chose their townsmen or neighbours, their knowledge of them might have been personal; though even then it is propable that familiar knowledge of the chosen member had little place. At present, the knowledge which the elector has of the member must for all practical purposes be gathered by other means. He may see his face occasionally—there may be a shake of the hand at the canvass—he may have spoken a dozen words to him in the market-place—there may be an annual dinner and harangue—perhaps an address at opening a mechanics' institute or a ragged school. He may read in the newspaper an occasional interlocutory observation in the House—perhaps a set speech. He finds his name in the list of those who voted for or against this or that measure, but of any knowledge of his habits of thought, disposition, or mental qualities, the elector has none which he may not, with the same attention, gather in the daily or weekly press, concerning the members for any other constituency. What the electors in general know of any public man, at this day, is derived not from any observation of his words and conduct, which they have been able personally to make or to witness, but of what they read and gather from that ubiquitous litera-

ture which penetrates and throws light on all the important transactions of life. We find in every town, in all political conversation, except at the approach of an election, that far more is thought and known, or discussed, of the conduct of those who have been from time to time ministers, than is thought or discussed respecting the conduct of their particular member. The attention is impressed by the more prominent objects in the political world, and dwells but little on the minor ones. In perusing the gazetted lists, with a view of framing their voting papers, every elector would be able to form his judgment as well of the merits of one as of another candidate, according as he had earned distinction in Parliament or elsewhere; or if, unknown to the world, according to his appreciation by other persons who are known and trusted.

Some electors may have neither time nor means to do more than they now do—give their vote for one or other of the candidates for their own borough; and in giving that vote they may resolve to rely, not upon any view of the parliamentary conduct of the candidate, but upon personal character, as the same has come under their own observation. Suppose the case of two candidates for a country constituency, and the elector to reason thus:—"I have been over the estates of these two gentlemen. I find, on one of them, that the farms are not high-rented; but I find, also, that they are very badly farmed. No draining has been done. All the buildings are in an ill condition, and have only been patched up for many years past. Most of the labourers' cottages were pulled down thirty or forty years ago, to lessen the poor rates, and the men and boys, and women when they are employed, have to walk three miles or more every night and morning, to the next parish, where they live, huddled together in the back lane. On the other property they say the rents have been raised, and some of the tenants complain they are a little too high; but then there has been a vast

deal of money spent upon the farms, and they get twice or three times as much from them as they used to do. The labourers have constant employment, and, wherever cottages have been wanted, good roomy ones have been built. They have all good gardens, and there are schools for the labourers' children. I know little of what is meant by Tory, or Whig, or Radical,—but the man who seems to manage his own business best, and attends to the good of his fellow-creatures, is the man I should rather trust, and for whom I shall vote."

It is easy to suppose the same kind of reasoning to take place in a manufacturing or a maritime town, and to be caused by like contrasts, of the conduct of different employers of labour. When no triumph can be gained, by forcing the electors to sacrifice all individual opinions to make up great majorities, and when all pressure of that nature is taken away, men will begin to think independently, and not be led by clamour. They will be governed much more by practical tests, and less by abstract and barren generalities. Those who witness and appreciate every noble effort which a man may make for the good of his neighbours or his country will be found active in his favour, and will make for him a sufficient, an independent, and probably an enthusiastic constituency.

The gazetted lists will present to the electors of the kingdom a roll of names, containing a large proportion of the most eminent men in it; for, when the obstacles which now impede the entry into Parliament are removed, there are few who will feel within themselves any competency for its labours, and have opportunities of engaging in them, who will not make the tender of their services. In the number will doubtless be found much of the dross of conceit, of self-sufficiency, and of folly; but the lists will also contain the pure ore of wisdom and virtue, if it exist,—and it is hard to believe that any generation is left destitute of those qualities. There will be the most that the nation possesses,—of high endowment,—

of the knowledge of men, gleaned by laborious study,—of science, rendering the material world subservient to the uses of man,—of literature, opening the understanding and enriching thought,—of art, conferring dignity and grace; many of these, combined with historic fame and ancient lineage, and together comprehending all the moral and intellectual worth, which the love of country and of mankind, and the desire for honourable distinction, can call to light.

The whole of this magnificent field of choice would be open to the electors of the kingdom. The capacity of selection, and the disposition to select from such materials, would be infinitely various; but the field, like the bounteous lap of nature, is free to all who have the intelligence and the industry to extract its treasures. Like nature, it would be barren and sterile only to the ignorant and the indolent—those who know not the wealth that it contains, or are without the industry and energy to profit by it. The pious, the learned, the scientific, the enterprising, and the philanthropic of every variety and degree, will all find a sympathetic expression amongst the candidates before them. There is a tendency in every sort of superiority to become a nucleus gathering about them kindred minds and characters. "Il y a un certain rapport, un certain lien entre la capacité d'être (un bon député ou autre chose) et la capacité de reconnaître celui qui possède la capacité d'être. Ceci est un fait dont dépose à chaque instant le spectacle du monde. Le brave se fait suivre de ceux qui sont capables de s'associer à sa bravoure. L'habile se fait obéir de ceux qui sont capables de comprendre son habileté. Le savant se fait croire de ceux qui sont capables d'apprécier sa science. Toute supériorité a une certaine sphère d'attraction, dans laquelle elle agit et groupe autour d'elle des infériorités réelles, mais en état de sentir et d'accepter son action."[1]

A representative assembly, chosen under a system thus free

[1] *Guizot. Gouv. Rep.*, vol. ii., p. 254.

and expansive, would be a reflex of the feeling and intelligence of the people. Gradually elevated in character by the constant operation of the process of comparison which is so powerful in every department of science, by the introduction of the most distinguished men, and by the elimination of the inferior, it would become a national Walhalla, worthy to form a branch of that parliament which, having its origin in the depth of past ages where all records are shadowy and doubtful, has gathered strength and dignity in its course, down to our own days, and become the great model of constitutional government, and the envy or admiration of all civilised nations.

In reviving and calling forth periodically, at short intervals, all proud and generous feelings connected with our country and race,—turning the attention of every thoughtful man on such occasions to the consideration of all that is excellent in the age in which he lives, we nourish that love of country in which a nation's unity and strength are found. Such love is of no sudden growth. It must proceed from the sense that our country contains something deserving of our affection, and gather its force from circumstances round which the feelings cling. "If our love for our country is to be sincere, without ostentation and affectation, it cannot be produced immediately by instruction and directions, like a branch of scientific knowledge. It must rest, like every other kind of love, on something unutterable and incomprehensible. Love may be fostered; it may be influenced by a gentle guidance from afar: but if the youthful mind becomes conscious of this, all the simplicity of the feeling is destroyed; its native gloss is brushed off. Such, too, is the case with the love of our country. Like the love for our parents, it exists in a child from the beginning; but it has no permanency, and cannot expand, if the child is kept, like a stranger, at a distance from his country. No stories about it, no exhortations, will avail as a substitute: we see our country, feel it, breathe it in, as we do

nature. Then history may be of use, and after a time, reflection, consciousness. But our first care ought to be for institutions, in which the spirit of our country lives, without being uttered in words, and takes possession of men's minds involuntarily. For a love derived from precepts is none."[1]

The representation in its theory, or in any worthy view of it, should be of all that is best and most instructed, omitting, as far as the separation is possible, all that is ignorant and vicious. The representative embodiment is to be of man, approaching, as near as his infirmity of thought and will permits him to approach, that which a lofty imagination has pictured of his pristine dignity, when,—

> In their looks divine
> The image of their glorious Maker shone,
> Truth, wisdom, sanctitude, severe and pure
> (Severe, but in true filial freedom placed),
> Whence true authority.

The design is to represent the qualities with which man is divinely gifted,—the noble heritage of his nature,—not their absence and negation. Such an assembly should present "the awful image of the virtue and wisdom of a whole people collected into a focus." The first introduction of representatives to constituents may be viewed as the contact of two intelligences,—a higher and a lower. How is this contact to be obtained? It must be by the higher descending to and looking down to the lower, or the lower searching for and raising its views to the higher. It is easier for the superior intelligence to make itself intelligible to the lower, than for the lower to ascend to and appreciate the excellence of the higher order of mind. But as the latter is more difficult, so also is it an infinitely more wholesome and beneficial exercise in human and social progress. Consider the opposite tendencies of two conditions of things:—one in which the great mass of society remains the passive subject of any attacks which misdirected talent may

[1] *Passow*, in note to *Guesses at Truth*, 2nd Ser., p. 365.

level against it, helpless itself to move until some hand be held out, and at the mercy of accident, whether it be that of a true friend or a concealed and insidious foe; prepared to be the unconscious victim of that perverted ability which is always hovering over it, ready to seize upon and turn its follies into a wicked profit;—the other, in which the same society is awakened to the value of what is truly good, by being insensibly forced to a comparison between the great and the mean. In the table which exhibits the chief names that enlighten and adorn their times, they will see—

"Life rising still on life, in higher tone."

Can there be a doubt in which condition there will be found that upward look, and that endeavour to appreciate excellence, which is a step towards excellence itself? It is the people who must search for and learn where knowledge and virtue are to be found. They do not come to them unsought:—the counterfeit only will be thrust into their hands, and in taking it they embrace "the false Duessa," and must, in the end, endure the odious sight of her deformity. "Philosophy cannot raise the bulk of mankind to her level, therefore if she is to become popular she must descend to theirs. This she cannot do without a twofold grave injury. She will debase herself and will puff up her disciples."

The habit of scrutinizing with attention the conduct of public men, and of forming an estimate of their relative merits, on an examination of the lists which the gazettes furnish, will naturally dispose the minds of men towards political moderation, and render them tolerant of differences, which they now regard as impassable objections. As our views widen, our sympathies increase and multiply; all things become more precious, and in all we find good. Merits will appear, where people had before seen only adversaries. It is party which begets party. When an elector addresses himself to the task of forming on his voting-paper a

list sufficient to compose an entire representative assembly, he becomes a mediator, rather than a partisan. He becomes less narrow, and more catholic in his opinions and prepossessions. One whom he before looked upon as an opponent, though possibly a distinguished one, he now comes to regard as a valuable auxiliary. In a late contest for the City there were few, if any, that voted against one of the former members, when asked whether in the present dearth of statesmen they really wished to exclude from the House one of the small number deserving of the name, who did not answer that their wish was only to exclude him from the representation of London, and not from Parliament. Under the proposed system his name would have appeared on most of the voting-papers; and the preference of others, if expressed, would have been shown only by the place which it occupied on the voting-papers.

As the extensive capacity of expression, and the interesting nature of the act of voting, comes to be felt, increased attention will be directed to it. Instead of that indifference to political action which prevails so extensively that in large constituencies only about half of the electors now take any part in elections, there is every reason to expect that much time would be given to the details necessary for the preparation of the voting-paper. This result can scarcely be doubted, when we consider the degree in which political subjects form, in this country, topics of thought and conversation. The system attains the object to which M. Guizot points as so desirable, that of placing "l'électeur dans une position telle que son jugement personnel, sa propre volonté, soient non seulement libres, mais provoqués à se produire tels qu'ils sont en effet."[1] The attraction presented to each elector by the power of giving effect in his vote to his especial and cherished opinions and feelings, will, when he comes to appreciate it, animate him with a new spirit of incalculable power. Con-

[1] *Gouv. Rep.*, vol. ii., p. 247.

siderations of duty will intervene with all their force. Every man will feel that he is personally responsible for his own error, or his own neglect. His understanding must teach him how to act, and his conscience guide him to the performance. It is the sense of individual duty that preserves every household in order and harmony. Each member of the household has his especial function, and knows that he is responsible for the manner in which he performs, and for his neglect if he omits it. If this were not so, all united action would cease; there would be no diligence, and no subordination. We may imagine the case of a family, in which no servant has power to act without the concurrence of a majority of his fellow-servants, and where but a few of them can agree together as to what they ought to do. In such an establishment there could be no certainty of the performance of any duty; for every one might cast the blame upon the others, and the household would be involved in inextricable confusion. The reasoning is the same of the multitude of families and persons who form the nation. As the individual restraints and sanctions become more feeble, certain breaches of duty and of justice are made the subject of municipal law. But all blame, and all punishment for error or misconduct in the family or in the State, assume the existence of a power to do right. If a man be prevented by others from performing a duty,—if he be precluded from doing it by a force which he has not himself assisted to create, and which he has no power to overcome, he must, in justice, be absolved from the blame of leaving the duty unperformed.

A system which first destroys individual freedom of action, and with it the higher inducements which connect action with duty, necessarily introduces and tolerates baser motives. Men tempt and are tempted by each other. One covets and seeks a public function for selfish purposes, by venal means, and another, for like ends, helps him to obtain it. The evil spreads. There ceases to be any belief in uprightness of

purpose. The only confidence left is of that miserable kind which relies solely upon that being done which it is the interest of another to do.

> "Thus vice the standard reared; her arrier-ban
> Corruption called, and loud she gave the word,
> Mind, mind yourselves! why should the vulgar man,—
> The lacquey, be more virtuous than his lord?
> Enjoy the span of life! 'tis all the gods afford."

The restraints imposed by penal laws are but a feeble and insufficient protection. The degradation spreads widely and becomes inveterate when the moral restraint is gone, and rich and poor, great and small, lend themselves to the same iniquity. There is no Ithuriel upon whose touch the insidious temptation starts up discovered and surprised. There is no spear of celestial temper to lay bare these foul cabals. We have no hope but in removing the causes which have tainted political life, and thereby striving to re-establish on its seat that faith in one another which we have overthrown and lost; to search through our land for men either worthy to lead, or to embody and represent all that is best and noblest amongst us, and having found such—for we need not doubt that such can be found; to give them our just reverence and implicit trust,—a reverence and trust which no man gives but by his own free consent,—which none can be forced to confer.

A system which asserts for itself the power of preventing every influence by which one man, or set of men, can control the acts of others, is necessarily brought into comparison with the ballot, which is put forward as a remedy for such evils. The advocates of the ballot cannot be supposed to have an attachment to the ballot for its own sake, and they will only contend for its introduction so long as it shall appear to them the most perfect scheme of electoral liberation. Many persons are misled by the use, in countries in which that system has been adopted, of the term "appeal to the ballot-box," and

similar expressions, as if it implied that it was a palladium of liberty; the fact being that the term only refers to the popular election as the ultimate authority, by describing one of its prominent features, as we, on such occasions, say "appeal to the hustings." No greater idea of specific virtue is attached to the machine called the "ballot-box" than we do to the wooden platform called "the hustings." The secrecy which the advocates of the former amongst us chiefly desire, is for the most part, and in all countries really free, regarded as of the smallest importance.

The difference and contrasts between the system here proposed, which may be called the system of individual independence,—and that of the ballot, are these:

The ballot proposes to give to every voter a perfect freedom to vote for any of the two or three candidates who may think proper to present themselves. The system of individual independence offers him a freedom of choice, not only of the two or three, but probably of two or three thousand candidates.

It may possibly be said, that one is *freedom* of choice, the other the *extent* of choice, which the ballot does not pretend to enlarge, and that therefore it is no defect in that system that it fails to do so. This may logically be an answer. It is, nevertheless, a proper subject of comparison between the two systems.

The ballot proposes to extinguish bribery and put an end to intimidation, by depriving every person disposed to bribe or intimidate of the means of knowing how the elector has voted. The system of individual responsibility proposes to put an end to bribery and intimidation by taking away all the artificial and pecuniary value of the vote.

The ballot cannot extinguish bribery. It is almost inevitable that in a country like England, so rich in rewards for political services, a system which places bribery out of the reach of detection, and gives it impunity, will extend the

practice to an incalculable degree. Why should it not do so? The organisation for controlling elections we see is at hand. What is to prevent a candidate from stipulating that his payment shall depend on his success. He need not inquire who votes for him or who does not. It is sufficient that all the leaders know that their reward depends upon their skilful and resolute conduct in placing a certain candidate at the head of the poll. It is not possible to conceive anything more desperate, or more unprincipled, than such a contest may become. The system of individual independence preserves a record of every vote, with the name of the elector by whom it is given, and it prevents any struggle, by depriving every elector both of the motive and power of conquering or overruling the will of another by the force of a majority.

The ballot proposes to protect the conscience of the elector, when that conscience is called into action by a predominant sense of the superior merit of any candidate. In the larger constituencies only fifty-five per cent. of the voters, at the utmost, interfere at all, and have, therefore, any conscientious motive one way or the other.[1] The system of individual independence calls the conscience into action in the case of every elector, by making him feel that he has a personal interest and power, which he cannot misuse or neglect, without knowing that he has failed in his duty.

The ballot proposes to secure the uncontrolled exercise of

[1] Mr. Kinglake lately, at Bridgewater, mentioned the benefit that accrued to a voter who had lost his employment by his vote, and had procured, through his aid, a better situation at Woolwich. It suggests the value of investigating all such cases, and of procuring, by agency easily found, ample indemnity to every one who may be in danger of suffering from such a cause. Not only would the voter have the sympathy of all persons of his own opinion, but all would be anxious to receive him for their own sakes,—every landlord and every master knowing the inestimable value of a conscientious tenant or workman. It would at once be individual profit, economical advantage, and political amelioration, without the degradation of the ballot.

the volition of the elector, by protecting him from the influence of his fears. The system of individual independence encourages him to act by giving his sympathies and opinions, and through them his volition, scope and operation as extensive as the moral and intellectual condition of his age shall afford, and thus calls every high and generous motive into exercise.

The ballot proposes, by enabling the voter to conceal his vote, to exclude the operation of that extraneous and improper control over him, which is the symptom of a vicious state of political morality. The system of individual independence addresses itself to the disease itself, as the most certain and effectual method of removing the symptom; it puts an end to the temptation of exercising an improper control over the conscience of any, by appealing to and giving freedom of action to the consciences of all.

The ballot, moreover, proposes to prevent not only direct and open intimidation, but that tacit discouragement of the free action of electors, which is the result of partiality in dealing,—of the giving, or withdrawal, of custom,—or of the extension, or privation of other advantages, according as the opinions of the electors are, or are not, in accordance with those of the persons who have such advantages to bestow or to withhold. Upon this point the pretensions of the ballot must be more closely examined.

The argument in favour of the concealment of the political action of every individual—whatever that action may be—in order that his temporal interests may not be affected, should be stated in all its force, that it may be fairly considered. It is undeniable that, throughout our political system, the manifestation of public opinion, in county, city, and borough meetings, and in open gatherings of people on all occasions, is looked upon as one of the features of the free political life existing amongst us. A mistaken importance may be attributed to these manifestations, but they have, no doubt, for

more than a century, constituted a method of mutual and national consultation and encouragement in the pursuit of public ends. The advocates of the ballot would, probably, say that they do not object to public meetings, for a man who wished to conceal his political opinions would not be obliged to attend them; and if he did attend them, he would be perfectly at liberty to applaud any opinion, however he may dislike it, and afterwards to compensate himself by voting the contrary way. The ballot, therefore, they would say, has nothing in it antagonistic to public meetings. We demand, say they, that the temporal interests of every man shall be protected from injury resulting from his opinions. No man has anything to do with the religion, the politics, or the morality of another. No man has a right, authoritatively, to determine what the religion, the politics, or the morals of another shall be; and what he cannot authoritatively determine, we demand that he shall be prevented, as far as possible, from influencing. All these things every man has a right to choose for himself. We demand for every man that none of his temporal advantages, of any kind, shall be restricted, or diminished, owing to prejudices which others may have against his religion, his politics, or his morals. A man may have prejudices in favour of Christianity, or of some special confession,—in favour of peace, of a general system of national education, or of free trade,—or in favour of a strict code of morals, and he may inculcate such doctrines, by his mouth or his pen; but he has no right to consider any of such things in the choice of his friends, his tradesmen, his tenants, or his servants. For none of these opinions is one man answerable to another,—and he usurps a right which does not belong to him who, beyond argument, attempts to exercise any influence or control on such points.

The reply to this may be,—that although it is true every man is accountable only to a higher judge for his religion, his

politics, and (except in so far as municipal law interferes) his morals,—although all these things are matters for his private judgment, and that judgment is free,—yet it does not follow that all religions, politics, and morals are equally right. Every man is entitled to be his own physician, but he has no intuition of the medicines which he should use or avoid. He is entitled to exercise his judgment, but there is certainly a right and a wrong judgment. One drug may be healing and another hurtful. So in religion; he is not responsible to man for his choice, but the choice is not therefore indifferent. There is a true, and there are false religions, and the consequences of error may be tremendous. In politics, one way may lead to general tranquillity and the public good; another way may lead to public misery or suffering, to anarchy or to tyranny. In morals, there is a good and an evil code. It may be true that no man is gifted with the power of pronouncing which is right and which is wrong; but it is of paramount importance that every man should make up his mind on all these subjects to the best of his understanding, and, having done so, that he should act upon his conclusion in all earnestness and sincerity. If this be so, we do not know how to act on your principle of avoiding or excluding the exercise of all influence. We believe this Christian confession to be a divine truth, which offers temporal and eternal happiness to man, and we propagate it with all our power; we believe that these rules of national conduct will promote the well-being of the people and of mankind, and we promote their ascendancy to the utmost of our means; we believe that a rigid self-denial, and the restraint of passions and desires, are the basis of morals, and we encourage them as far as we are able. If we did not thus labour for what we conceive to be the good of our fellow-creatures, we should, as it appears to us, fail in our duty, and convert life into a cold converse of intellect, without affection or sympathy. We should become mere dialecticians, and not men. We are, by

the operation of these motives, led to form our friendships and our society for the most part amongst those with whom we have opinions, and feelings, and sympathies, in common. It is against this tendency, say the advocates of the ballot, that we are resolved to struggle. We will deprive you of the means of displaying such partialities, by concealing from you, as far as we can, the opinions of your neighbours. We cannot, indeed, conceal their religion, if they profess any, for they cannot go to their churches or chapels in a mask. We cannot, perhaps, altogether conceal every departure from what you deem morality, for few of the actions of life can be done under a mask,—but as to politics, at least we can defy your penetration; the ballot will prevent you from knowing how any man may vote. He shall be allowed to vote under a mask. Be it so, is the answer. We shall still be able to discover the political opinions of those around us, and from those opinions we shall infer their votes. This will be impossible, is the reply, for we enable every man to wear the guise of agreeing with you, notwithstanding his vote may be given in support of opposite principles. You will not know by whom the votes were given which belie the previous assurances that you received. You may suspect your friends of abusing your confidence, and falsifying their professions. The man who dines at your table, and most eagerly expresses his concurrence in your sentiments, may be one whose act contradicts his language. When we have established the ballot, you will cease to believe the political declarations of any of your neighbours, and, in the general distrust of everybody, political friendship will be at an end. No man will value or regard a political promise. It will cease to be asked for. All attention, all efforts, and all reward will be directed to the *result* of the ballot.[1]

[1] In the Chapter (X.) on *The Mode of Voting*, in Mr. Mill's *Considerations on Representative Government* (p. 197, et seq., 2nd ed.), the question of the ballot, together with the spirit it would foster, is considered in its latest aspects, in regard to our present political condition. (Note to 3rd ed.)

In the representative system, M. Guizot observes:—"Il est vrai, et par le fait nécessaire, que la liberté, la vérité et l'erreur, les volontés perverses et les volontés légitimes, en un mot, le bien et le mal qui co-existent et se combattent dans la société comme dans l'individu, pourront également se produire; c'est la condition de ce monde; c'est le fait même de la liberté. Mais à cela deux garanties; l'une se trouve dans la publicité de la lutte; c'est pour le bien la meilleure chance de succès; car ce ne sont pas les hommes qui ont inventé l'analogie du bien avec la lumière, du mal avec les ténèbres; cette idée commune à toutes les religions du monde, est le symbole de la première des vérités."[1]

The peace and security and strength of social and of individual life depend upon our trust and our trustworthiness. Everything that tends to sap the confidence of man in his fellows, is like an insidious poison in the system,—a worm at the root of every good thought and action. Faith is not a mere theological virtue. It is not a mere metaphysical term. It is enforced as emphatically, though not with the same authority, by the economist[2] as by the divine. Without it there can be none but selfish desires,—nothing but low expectations. It is the golden cord that binds will to duty. Shakespeare has painted in living colours the growth of dark suspicions, which first torture and then madden the wretched husband who distrusts his wife's fidelity. Fenelon has shown us the dismal picture of a tyrannical and avaricious prince, isolated in his palace, his only hope of safety in the bolts and bars that secure his chamber, fearing everything, and having everything to fear, the curse of his subjects and of himself who had lost all trust in his servants and his ministers. A novelist of our day has delineated in a tale the miserable condition of a man without belief in goodness or truth or natural

[1] *Guizot, Gouv. Rep.*, vol. ii., p. 151.

[2] *Mill, Principles of Political Economy*, vol. i., pp. 134, 135, 136; vol. ii., p. 449.

affection, having a heart which covetousness had hardened, rejecting alike the offices of kindness and the claims of charity,—a voluntary outcast from his species. These exhibit to us life as in a mirror, and show that to faith is assigned, in the moral world, something like that mighty office and power which are, in the physical world, fulfilled by the law of gravitation. It is faith alone that can hold the thoughts, the passions, and the actions of man in their due relation and concord with himself, his fellows, and the objects of his existence. "The foundation of domestic happiness is faith in the virtue of woman. The foundation of political happiness is faith in the integrity of man. The foundation of all happiness, temporal and eternal, is faith in the goodness, the righteousness, the mercy, and the love of God."[1]

In the action of voting, instead of destroying the remnant of belief in the fidelity of man to man, the true reformation would be to restore our faith in political honesty, by extinguishing, as far as human means can effect it, the temptations to selfishness, hypocrisy, and untruth. In that action, the only rule is that prescribed by the apostle for the government of the conscience, "let every man be fully persuaded in his own mind." The full persuasion the elector must entertain that his country has not, like a cruel and careless stepmother, left him surrounded with difficulties and obstacles in the performance of his duty; but has, with the maternal solicitude of a loving parent, carefully provided for him every means which she could devise for assisting him to perform that duty: and he must have this further persuasion that, recognising the maternal care and solicitude of his country, he has, on his part, in the same loving spirit, returned her kindness and her attention by performing the duty to the best of his power,—in selecting those whom he believes will best and most honestly serve her.

In insisting upon the absolute necessity of disentangling

[1] *Guesses at Truth*, 2nd Ser., p. 318.

individuals from the artificial bands which our political system has cast about them, the question of what has been called the "independence of individuality" should be viewed on every side. Many thoughtful minds regarded with great dread the destruction of a system sanctioned by long tradition, whereby the choice of representatives was left to the dictation of a few, and the establishment of a method of election which allowed every man to be his own master and guide. They foresaw the evils which have since been felt. One of the most profound thinkers of late times, reasoning on such a change, thus puts the argument:—"It is in no way necessary, for the sake of becoming free, to pull down the whole edifice of society, with all its time-hallowed majestic sanctities, and to scatter its stones about in singleness and independence on the ground. Yet assuredly it would not be more absurd to call such a multitude of scattered independent stones a house, than to suppose that a million, or twenty millions, of independent human beings, each stickling for his independence, and carrying out this principle through the ramifications of civil and domestic life, can coalesce into a nation or a state. There is need of mortar—there is need of a builder—yes, of a master builder: there is need of dependence, coherence, subordination of the parts to the whole, and to each other."[1]

Doubtless there must be the working plan,—there must be cohesion of material,—but what is the true cement, and where is the master builder? It had been proved too sadly to mankind that their rulers had no divine inspiration to guide them in their office, and that they worked with the untempered mortar of the follies, the passions, and the vices of the people. Three thousand probationary years passed over the world,—the times of history or historic fable,—

> Thebes and Pelops' line,
> And the tale of Troy divine.

The long ages of trial for the heroes and mighty princes who

[1] *Guesses at Truth*, 2nd Ser., p. 267.

led and governed men,—all were found wanting. The pagan world bowed to the truth as spoken by Olympian Jove, that the highest court of justice,—the court of the last appeal,—was not an external authority, but resided in the conscience. The evangelical prophet opened his mission, when he announced the fulness of time, by the precept, "Cease ye from man." All record, sacred and profane,—all revelation, lead to the recognition that there is but one power able to arrest evil, and bind mankind together. By that divine energy and word, a people of strangers, scattered over untravelled regions of the east, became entitled to the apostolic epithet and name of living stones of a spiritual house, acceptable to Him, the only Builder and Maker. No mortar for such a work,—no imperishable cement for the edifice of the state, or any other institution of man, is to be found that does not dwell in the individual conscience. All goodness, all religion is personal, or it is nothing. "The aim of Christianity is not to stifle the germs of individual character, and to bring down all mankind to a dead level. It, on the contrary, fosters and develops the central principle of individuality in every man, and frees it from the crushing burthen with which the lusts of the flesh and the vanities of life overlay it."[1]

A discourse which insists on the sacred nature of the act of voting may be fitly concluded by a suggestion on the manner of celebrating its performance. The ancient customs of the kingdom connect religion with its most important events and transitions. The coronation is accompanied by a humble recognition of the sovereignty of God over all, and a prayer that he would grant unto the earthly sovereign the spirit of wisdom and government,—to restore the things gone to decay, maintain the things that are restored, reform what is amiss, and confirm what is in good order,—to be merciful and not too remiss,—to execute justice and forget not mercy,—judge with righteousness, reprove with equity, and accept no

[1] *Guesses at Truth*, 2nd Ser., p. 24.

man's person,—abase the proud and lift up the lowly,—punish the wicked and protect and nourish the just;—and it ends with a benediction that supplicates for the sovereign a faithful senate, wise and upright counsellors and magistrates, a loyal nobility, and a dutiful gentry; a pious, learned, and useful clergy; an honest commonalty,—and the universal love and reverence. These supplications are echoed, it may be at other times and in other forms of expression, by every Christian minister and congregation. The service should have a suitable parallel on the day of the election of the representative assembly, which should be set apart throughout the kingdom for the business of the election alone. A special service might be appointed by the Church,—and all other persuasions invited, according to their several manners, to solemnise the public act, and seek for it the divine blessing. In so doing, we "act on the only received and uniformly continued sense of mankind. That sense not only, like a wise architect, hath built up the august fabric of states, but like a provident proprietor, to preserve the structure from profanation and ruin, as a sacred temple, purged from all the impurities of fraud, and violence, and injustice, and tyranny, hath solemnly and for ever consecrated the commonwealth, and all that officiate in it. This consecration is made, that all who administer in the government of men, in which they stand in the person of God himself, should have high and worthy notions of their function and destination; that their hope should be full of immortality; that they should not look to the paltry pelf of the moment, nor to the temporary and transient praise of the vulgar, but to a solid permanent existence, in the permanent part of their nature, and to a permanent fame and glory, in the example they leave as a rich inheritance to the world." . . . . . "Every sort of moral, every sort of civil, every sort of politic institution, aiding the rational and natural ties that connect the human understanding and affections to the divine, are not more than

necessary in order to build up that wonderful structure, man, whose prerogative it is to be, in a great degree, a creature of his own making, and who, when made as he ought to be made, is destined to hold no trivial place in the creation. But whenever man is put over men, as the better nature ought ever to preside, in that case more particularly he should, as nearly as possible, be approximated to his perfection."[1]

The proposal for such a consecration of the national work cannot be strange in the ears of the people, for it is in accordance with the spirit of their common prayer for the High Court of which the representatives are a part,—that all things may be so ordered and settled by their endeavours upon the best and surest foundations, that peace and happiness, truth and justice, religion and piety, may be established among us for all generations.

[1] *Reflections*, &c., p. 137.

CHAPTER VIII.

DUTIES AND POWERS OF RETURNING OFFICERS.

THE duties on the returning officer, so far as they are affected by the proposed law, will be,—upon a dissolution of Parliament,—to receive daily from the registrar of electors the "Gazette," containing the names of candidates,[1] and to direct the publication and distribution of copies at such places as shall be most accessible to the electors. On the day of the election to receive, through the agency of the polling-clerks whom he will appoint, the voting papers; and, at its close, to report to the registrar the number of votes which have been polled,[2] and after receiving the declaration of the quota[3] to make the return to the writ of the due election of the candidate or candidates for the constituency for which he officiates. In some cases, as in large constituencies, he may be able to make that return without the assistance of the registrars;[4] in other cases, as in small or very divided constituencies, he will not be able to make it until the voting papers have been sorted by the registrars. Other and subordinate duties, such as that of finally collecting, arranging, and binding up all the voting papers of his constituency, for future reference and verification if required, are mentioned elsewhere. The day of election throughout

[1] See Clauses VIII. and IX., pp. 96, 97, and see Form of the Gazetted List, p. 97.

[2] Clause I. [3] Clause III. [4] Clauses XXIII., XXV.

the kingdom should be the same. The convenience of persons having votes as well in counties as in a borough, or corporate constituency, may be provided for in a manner hereafter suggested.

XV. The same day shall, at every general election, be appointed for the poll, throughout the kingdom, and shall be specified in the writ; but such day shall not be less than days, nor more than days after the date of the said writ (which writ shall be framed and expressed in such manner and form as is necessary for carrying this Act into effect), and the respective sheriffs and returning officers shall, on receipt of the writ and the precept, respectively, forthwith make proclamation, and give notice of the day of such poll, and of the respective polling-places at which the same will be taken, within the limits of their respective counties, boroughs, or districts, and for their respective constituencies.

The votes should be taken at polling places opened in every parish, and if the parish be very large and populous, at several places in the same parish. If it be populous, but not of any wide extent, a larger staff of clerks at one place might be sufficient.

It is plain that a system of registration, having any pretensions to be adapted to its true purposes, facilitating the business of the election, distinguishing between those whose qualifications have ceased and those which continue,—between the living and the dead,—must be a registration effected by different means, having for its basis the *residence* of the voter, and not the place of qualification only.[1] It is in no way necessary that expense should be incurred in the erection of polling-booths. There are few parishes in the kingdom which do not contain some building applicable to a public use, as, for example, a school-room, which, without inconvenience, could be used for one day. If, in a few remote places, such a room or building could not be found, there would be no difficulty in hiring some room in a public or

[1] See "*Defects on the Existing Law of Registration*," &c., by W. Albert James, 1859, pp. 42, 43, 44.

even a private house for the short period during which it would be required.

In the cases of parish school-rooms, or National or British schools, a small payment of a guinea or two for the hire of the room for a day would often be thankfully added to the subscriptions by which the institution is sustained. In order to obviate all doubts which trustees and others may entertain as to their powers for so harmless an enlargement of the purposes of the edifice, a compulsory power might very properly be given to the returning officer to use the building for a single day. It may be thus expressed :—

XVI. The returning officer for every electoral district is empowered, at a general election, to take and use as a polling-place to be occupied for that purpose during the day of election, but no longer, upon giving seven days' notice of his intention to that effect, any room or rooms of competent space in any school-house or other building supported wholly or in part by any public or parochial funds, or by any perpetual endowment, or which has been built or is supported wholly or in part by any grant under the control of the Committee of Council for Education; and he shall pay a reasonable sum for the hire of such room or place, together with the full cost of repairing any injury or damage which may be occasioned to the premises or the furniture thereof by the said use, such hire and damages, in the event of the returning officer and the managers or trustees or owners of the said premises differing about the same, to be settled by two justices of the peace, one to be chosen by the returning officer, and the other by the said trustees, managers, or owners.

The schoolmasters of the National and British Schools who would be liberated for the day from their duties, would form a class in which very intelligent clerks would be found to assist in the reception of the votes: they are not often so well paid as to make the remuneration for their extra services on that day unacceptable. The pupil teachers would in many cases also be competent and useful assistants; nor would attention to duties of this nature be in any case undeserving of regard as an element of education. Every vote, it will be remembered, is expressed on a document, which remains as a record, and there is no room for error on the part of the

clerk which is not easy of correction. The overseers and churchwardens of the parish, or some of them, may be required to be constantly present during the day, and the other inhabitants invited to attend,—the whole proceeding being public. In small parishes one clerk would be sufficient; when the parish or district is more populous, two, or three, and at the most four clerks, would be required, except in the few cases of a very large population with but one polling-place.

The process of receiving the voting papers of a populous district, or a county, at a polling-room where four clerks are employed, may be this:—

The voter will present himself, with his voting paper, to one clerk, whose duty it will be to examine it, for the purpose of seeing that the numbers and names are all distinctly written or printed, and to point out to the voter any part which requires to be corrected or made intelligible. He will also see that the voting papers—for readiness in sorting—are, as far as possible, on paper of the same size, which will be provided for the purpose, and that the paper is written or printed on one side only, the elector being at the same time at liberty to use either one sheet of paper only, or to make the document, if he pleases, voluminous enough to contain all the names in the gazetted list. If the voting paper consists of several sheets, the same clerk will see that they are carefully connected together, and that every sheet bears the name of the voter and the other particulars which identify him.

If the voting paper be in any respect materially informal or inaccurately or unintelligibly framed, the first clerk will refer the elector to a second clerk, whose exclusive business it may be to assist the elector to amend the document, or give him any necessary instruction for that purpose. This will avoid any unnecessary loss of the time of other voters, who —as will gradually become the habit,—have carefully and

accurately prepared their voting paper before coming to the poll. There is as much reason to suppose that this previous attention will become habitual, as there is to expect that people will generally write and seal their letters with care before they put them in the post-office.

When the voting paper shall be properly prepared, the elector will hand it to the third or recording clerk, who will receive it, and mark on his copy of the register of electors opposite the name of the voter, a number showing the numerical order in which the vote has been recorded, and he will indorse the same number on the voting paper. This number will be material for purposes which are hereafter explained.

The fourth clerk will receive the voting papers from the recording clerk, and enter them in a tabular form, which will enable him to cast up the result of the polling as it proceeds, and ascertain almost instantaneously the number of votes polled for any candidate. This clerk will have nothing to do with any other than the first name on the voting paper, and as the voting paper comes to his hands he will enter the number indorsed upon it in his tabular book under that name. This tabular book is composed of a series of columns ruled vertically, one of which is appropriated to every candidate first named in any of the voting papers delivered to him. The form may be as follows:—

Tabular Book filled up at the Polling Places as the Votes are taken.

Borough of

Polling Place [A.]

1859.

Clerk.

W. Pitt.	H. St. John.	W. Fortescue.	F. Campbell.	G. Methuen.	T. Osborne.
1	2	4	5	6	7
8	3	9	33	15	
12	28	10		16	
13		11		17	
14		20		18	
27		21		19	
		22		26	
		23		32	
		24			
		25			
		29			
		30			
		31			
6	3	13	2	8	1

The names at the head of the several columns in the above table represent those of supposed candidates, and the numbers underneath the several names are the numbers of the voting papers, indorsed upon them as they are received by the recording clerk. By adding up the number of votes given for each candidate, as is done at the foot of every column in the above table,—the state of the poll at that particular polling place would be known at any moment. If a certain number of lines were ruled horizontally across the tabular book, and

each number written on one line, as soon as each column was full the number of votes shown in it would be ascertained even without the labour of counting. The computation of the entire result, when the register and voting papers are brought to the place of election, at which the returning officer or his assessor officiates, would be purely mechanical, and the work of a few minutes.

It may appear that it is entering into an unnecessary degree of detail to undertake the explanation of these minor arrangements of the business of the election; but, in truth, a closer consideration will show that there is no step which it is not important to make clear. Upon the establishment of a rational system of representation, vast interests are depending. It is not possible to conceive any subject affecting the temporal welfare of mankind of greater importance,—even if its influence wholly ended in time. The almost universal disposition is to turn aside from such considerations, with the despairing cry that it is impossible to make the representation pure and faithful; and this despondence has carried away the minds of many persons to the ballot,—in the desperate hope, that, by putting out that light which men have abused, virtue may be found in mist and darkness.

> Would you then learn to dissipate the band
> Of these huge threatening difficulties dire,
> That in the weak man's way like lions stand,
> His soul appal, and damp his rising fire?

—In aid of every patriotic resolution which may be awakened in those whose voices are heard above the crowd, and who have power to lead the popular mind, it should be shown, as plainly as language can show, that there is no difficulty in establishing a better state of things. In what is proposed there is much less complexity than is daily encountered and overcome by the purest mechanical arrangements in the clearing-house of the London bankers, or in the General Post-office. In conveying to the mind, in the shape of a

written narrative, the process of operation, every sort of machinery has an appearance of complexity. This would be immediately felt by any one who should endeavour, in words, to explain to another, who had not seen it, the operation of Jacquard's loom, or of the steam engine. An attempt is, however, made to bring the proceedings of an election of representatives,—such as it ought to be amongst an intelligent and free people in a civilized age,—as vividly as possible before the eyes of every reader.

We have reached the stage of the proceeding at which the voting papers,—some containing many and some few names, or a single name,[1] have been taken at the polling places. These, with the tabular books of the polling clerks,[2] are collected at the town or county hall, or other central place, where the returning officer presides. If there should be several polling places, they must be severally distinguished by a name or mark,—as by letters A, B, &c., so that, in sorting the voting papers, those received at the several polling places be always taken in consecutive order. In large constituencies, where the town hall or other chief point of concentration is ready of access from all the polling places, it would be desirable that the votes and tabular books should be collected several times during the day, that the process of sorting may be going on contemporaneously with the other business of the election. In such constituencies, it will soon be found that favourite candidates have votes exceeding in number their required quota, and which votes will therefore become available for the next candidate (if any) named in the voting papers.

It is probable that the voting papers will sometimes contain the name of a person on the gazetted lists, who has not offered himself as a candidate for the particular constituency to which the duties of the returning officer exclusively refer, but whom, notwithstanding the voter has, by selecting for the

[1] Page 124. [2] Page 157.

first place on his paper, proposed as a fit person to represent it. Where any such names occur first on the voting paper, the business of the returning officer will be to forward them to the registrar. The returning officer is to confine his attention (except as to such transmission) to the voting papers in which the name of a candidate, or of the several candidates, for his particular constituency stand at the head,—that is, are named successively, one or two, or any successive number, according to the voters' peculiar predilection, down to the point at which he introduces the name of one on the list who is not a candidate for his special constituency. As soon as such other name intervenes, a further combination is introduced, which brings the appropriation within the department of the registrar.

Suppose the case of several thousand voters, and one or two candidates for the constituency, having each more than the quota required. The returning officer ascertains, first, who have the majorities, counting on this occasion only the voting papers in which the candidate has the first votes,—he then separates the 1840, or 2000, or whatever the quota may be, last polled for the candidate who has the majority, and causes his name, where it stands at the head of the other papers, to be cancelled. The second name on those papers then becomes the first, and the voting papers making up the quota for the second candidate are taken, and his name cancelled on the remaining papers, bringing a third name forward to the first place, and so on, until the name of one who is a candidate elsewhere occurs, or until the quota can no longer be made up; and the returning officer then forwards the remaining voting papers to the registrar.

These duties may be prescribed by the rules[1] or laws which follow:—

[1] These clauses would with more propriety form rules of the same law, but they have been made distinct clauses for the greater convenience of reference.

XVII. The returning officer of every constituency shall, at the close of the poll, and as soon as is practicable after the voting papers have been collected, ascertain and certify to the registrar the aggregate number of votes which has been polled by the constituency of which he is such returning officer,[1] and he shall then ascertain and declare the number of voters which has been polled in the same constituency for the several candidates respectively, counting for such purpose only the votes for the candidates whose names are placed at the head of or first on the respective voting papers; and when the returning officer shall have received from the registrars their declaration of the quota of voters at such general election as aforesaid,[2] if one or more candidate or candidates shall have so polled in such constituency the quota or quota of votes, then the said returning officer shall (after setting apart the said quota or quotas as hereinafter directed) forthwith return the candidate or candidates for whom the majorities or greater numbers of voters of the said constituency shall have polled (he or they having such quota or quotas as aforesaid) as the member or members to serve in Parliament for such constituency.

XVIII. The candidate, whose name is placed first in the voting papers of the constituency for which he is a candidate, shall be the candidate for whom the votes in such voting papers respectively shall be taken; and if the quota of such candidate shall not be made up by such votes, then the votes in the voting papers of the same constituency in which he shall be placed second, and then third, and so on successively, shall be taken for him in case all the names standing higher in any such voting paper shall have been cancelled as hereinafter directed.

The next law prescribes the order in which every voting paper is to be appropriated.

XIX. All the votes on voting papers in which any candidate is named alone shall be appropriated to him; and if such votes be less in number than the quota, then the votes on voting papers in which he is named first, or first after any cancelled name or names shall be so appropriated, and if such votes shall exceed in number the quota required, the number of the said quota and no more (except as otherwise hereinafter provided) shall be appropriated to such candidate, and such quota shall be made up by taking—*first*, the voting papers that contain the uncancelled name of no other candidate; and *next*, the voting papers that contain the uncancelled names of one, two, or other number of candidates, successively, taking always the voting papers respectively containing a smaller, before those containing a larger number of such uncancelled names; and when it shall appear that two or more of such voting papers contain an equal number of

[1] Clause I., p. 25.

[2] Clause III., p. 25.

uncancelled names of candidates, *then* the quota shall be made up of the votes polled for the said candidate, beginning at the last so polled which are otherwise equal as aforesaid, and so on to the earlier of such votes in the order of their reception as indorsed on the said voting papers;[1] and for the purpose of recording the said order, and of ascertaining which shall be taken to form the quota in case there shall be more than one polling place, the polling places shall be distinguished by consecutive letters or marks; and the votes appearing by such indorsement to have been last received at every polling place consecutively, according to the said distinguishing numbers or marks, shall be first taken *pari passu; but so much of the foregoing rule of appropriation as directs that the voting papers containing the smaller shall be taken before those containing the larger number of names, shall be subject always to the provisions regarding locality and association contained in Clause XXIV. of this Act;* and as soon as the quota of votes to be attributed to any candidate shall be thus ascertained, the voting papers making up the said quota shall be set apart by the returning officer (or by the registrar, as the case may be); and thereupon the name of the said candidate shall be cancelled on all the remaining voting papers, by being stamped across the same by a stamp of a form to be settled and provided by the registrars, and furnished by them to the returning officer for such use.

The duties of the returning officer in the appropriation of the voting papers are now at an end, and he has only to transmit the remainder to the registrar.

XX. The returning officers, after setting apart the number of voting papers which make up the quota, or respective quotas, of the candidate or candidates (if any) so returned as aforesaid, shall, as soon as possible after the close of the poll, transmit the remainder of the said voting papers; and if no candidate has obtained the said quota and been returned as aforesaid, then they shall transmit the whole of the said voting papers to the registrars respectively, by the hands of one of the sworn poll-clerks, or some other competent messenger, accompanied by a certificate of the names of the candidates for whom such votes are given; and the number of votes given to every candidate respectively, counting only the candidates first named, or first named after the cancelled name or names in the said voting papers, together with the total number of voting papers so transmitted, and the number of registered electors who have not polled at such election.

It is necessary to provide also for other new circumstances. The increase of constituencies by the admission of several hundred towns at present unrepresented, and perhaps of many ancient as well as modern corporations, of a public character,

[1] See p. 156.

—universities and colleges,—to the right of returning representatives, will probably create many more constituencies than there are, or can be members in the House. All, or many of the contributory boroughs, also, instead of having one member to four or five towns, may apply for an order enabling them to act severally. Candidates will, therefore, frequently offer themselves for more than one constituency. The candidate for Ayr may be candidate also for Campbeltown and Irvine. If Trinity College, or Lincoln's Inn, had power to make a separate return of a representative, the candidate for Trinity College, of which he may be a distinguished member, might be also a candidate for his county, or a town adjacent to his estate; and the candidate for the Society of Lincoln's Inn might be a candidate also for the metropolis or for any parish in the metropolis, according as the metropolitan community should prefer to form aggregate or separate electoral bodies. In all cases in which one person might happen to be a candidate for more than one constituency, it would only be the returning officer for the *first* constituency, which he specifies in his notice to the registrar,[1] and which is stated in the Gazette,[2] who could, immediately after the close of the poll, return him. If this were otherwise, there might be a conflict in the action of two constituencies. If his quota be made up in the first constituency, he cannot be returned in the second[3] until after his votes in that constituency shall have been forwarded to the registrar, and the result certified. If his quota be not made up on the first constituency, his votes will of course be also transmitted by that returning officer to the registrar.

XXI. Where one person is a candidate for the representation of more than one constituency, all the voting papers on which he is placed No. 1, which are polled in the constituencies other than the first for which he is

[1] P. 97. [2] P. 97.

[3] He may titularly represent the second or other constituencies. See Chap. X.

described in the gazetted list as a candidate, shall be forwarded by the returning officers to the registrars as aforesaid, notwithstanding they may exceed in number the quota.

The powers and duties of the returning officer thus differ in cases where the number of votes polled by the constituency affords the quota to one or more of the candidates, and in the cases of the smaller constituencies, or where great differences of sentiment prevail, and the total number of votes given, or given for any particular candidate, is insufficient to complete the quota. In the first case he will return the candidates having the majorities, supposing each to make up at least the quota,—as duly elected, and will transmit the surplus votes to the registrar; and in the latter cases he will transmit the whole of the voting paper to the registrar, without doing more than certifying the numbers polled for every candidate, awaiting the certificate of the registrar as to the fact of any of the candidates having or not having his quota supplied by votes from other places.

Aberdeen may be taken as an example of one of the first-class constituencies. At the last election there were two candidates; and supposing that to be the case, and that under a system such as that which has been suggested some of the voters give a preference to, and place at the head of their voting papers the names of, some candidates for other places, the computation of numbers at the close of the poll might stand as it is represented in the following certificate and letter, in which the returning officer of the city of Aberdeen is supposed to communicate the result to the registrar at Edinburgh.

Aberdeen, 1859.

Sir,—I certify that, at a poll this day taken for a member to serve in Parliament for the city of Aberdeen, 1,850 of the electors of the said city have given their votes for William Henry Sykes, Esq., and that the said number of votes forms a majority of the electors of the said city, or is a greater number thereof than has polled for any other candidate.

I also certify, that the said William Henry Sykes having, as aforesaid, more than the number of 1,840 votes, which number of 1,840 is the quota of votes specified in the certificate, signed by the Registrars of voters for England, Scotland, and Ireland, and contained in the *London Gazette*,

dated the - I have made my return to her Majesty's writ to the effect that the said William Henry Sykes has been duly elected a member to serve in Parliament for the said city.

I also certify, that I have caused 1,840 voting papers of the said 1,850 polled for the said William Henry Sykes, taken in the order prescribed by Sect. 19 of the Act, to be sealed under my official seal, and the same are retained by me; and that the name of the said William Henry Sykes having been cancelled on the remaining 10 voting papers, the same respectively have been appropriated to the candidates respectively secondly named therein, and that, after such appropriation, it appears that the votes not polled for the said William Henry Sykes, and beyond the quota necessary for his return as aforesaid, are 2,588 in number, and that the same have been respectively given to, and are now appropriated for, the other candidates hereinafter named according to the numbers stated opposite to their names respectively, viz. :—

John Farley Leith, Esq.	1549
Lord Elcho	483
Henry James Baillie, Esq.	250
Hon. Arthur Gordon	225
Edward Ellice, Jun., Esq.	48
Colonel Robert Ferguson	30
Robert Campbell, Esq.	2
Alexander Dunlop, Esq.	1

And I acquaint you that I have transmitted to you, by the hands of , one of the poll-clerks appointed and duly sworn to officiate at the said election, the said 2,588 voting papers.

I also certify, that it appears that 119 registered electors of the said city have not voted at the poll this day.

I have, &c.,

Returning Officer for the City of Aberdeen.

To the Registrar for Scotland.

It will be observed that the names in the above certificate, other than that of Mr. Leith, are the names of gentlemen who are supposed not to have been candidates for Aberdeen, but to have been candidates elsewhere, and for whom some Aberdeen voters have thus indicated their preference by giving unsolicited votes.

The certificate of the returning officer in the case of the

smaller constituencies would be in a still more simple form, thus:—

Ashburton, 1859.

Sir,—I certify that at a poll this day taken for a member to serve in Parliament for the borough of Ashburton, the votes of 220 electors for the said borough were polled for the several candidates hereinafter named, being the candidates first named in the voting papers respectively, viz.:—,

George Moffat, Esq.	150
Sir James Weir Hogg, Bart.	22
Charles Seale Hayne, Esq.	14
John Hardy, Esq.	10
James Taylor, Jun., Esq.	8
George Pott, Esq.	8
Henry Thoby Prinsep, Esq.	7
John Gregory, Esq.	1

And I have transmitted to you by the hands of , one of the poll-clerks appointed and duly sworn to officiate at the said election, the said 220 voting papers.

I also certify, that it appears that sixteen registered electors of the said borough have not voted at the poll this day.

I have, &c.,

Returning Officer of the Borough of Ashburton.

To the Registrar for England.

Another provision with respect to the duties of the returning officers will be that which relates to the returns they will be required to make of members for their several constituencies,—not founded upon their own calculations of the number of votes, but upon the casting up of the votes in the offices of the registrars, in which the votes polled in other constituencies are brought in aid. In these cases the certificates of the registrars will be the evidence and the authority on which the returning officers will necessarily act.

XXII. Upon the receipt by the returning officer of the certificate of the registrar, that the quota of votes of any candidate for whom a vote or votes has or have been given in the constituency of which he is such re-

turning officer, has been completed, or that such candidate has obtained a comparative majority, as hereinafter mentioned, and if the member, or full number of members which the same constituency is entitled to elect, shall not have been returned, then the said returning officer shall, if such candidate has polled a majority or greater number of votes of such constituency than any other candidate, *and any of such votes shall have been appropriated to him according to the rules hereinafter prescribed*, return such candidate so certified to him, or so many of such candidates as shall complete the number of members which the said constituency is entitled to elect, as duly elected to serve in Parliament; and if the candidate or candidates having a majority or greater number of votes in such constituency shall not have obtained the quota or comparative majority, as aforesaid, then the said returning officer shall so return such or so many of the said candidates, not exceeding the number the said constituency is entitled to elect, as shall be certified by the registrar to have obtained the quota or comparative majority, and who shall have polled in the said constituency such highest or higher number of votes, exclusive of the candidate or candidates who have so failed in obtaining the said quota or comparative majority; and in the ultimate computation of such majority or greater number of votes polled for any candidate in a particular constituency (who has obtained the quota or comparative majority as aforesaid), the returning officer thereof shall not regard the cancellation of the names of any such candidate on the voting papers thereof, owing to such votes being in excess of the quota of such candidate, but shall, in computing such majority or greater number of votes of the particular constituency, count such votes, whether the same be or be not cancelled as aforesaid, both for the candidate or candidates whose name or names has or have been so cancelled, and for the candidate or candidates to whom they have been appropriated; and shall also add thereto all other votes of the same constituency which shall be appropriated to him or them under Clause XXVI. of this Act.

The effect of this law may be illustrated by supposing, in the above case of Aberdeen, that the registrars had certified that Mr. Leith, Mr. Baillie, Lord Elcho, and Mr. Ellice had, and that no other of the candidates had, obtained the full complement of votes. Mr. Leith would then be returned as the second member. Assuming that Aberdeen were entitled to return a third member, that the other successful candidates were Lord Elcho, Mr. Baillie, and Mr. Ellice, and that none of the 250 votes given for Mr. Baillie had been appropriated to him, his quota being completed without their aid, by voters of the constituency to which he had offered himself, or the

neighbouring constituencies who, according to Law XXIV., had a prior right to have their votes appropriated to him; and supposing that the whole, or part, of the 483 Aberdeen votes given for Lord Elcho had been appropriated to him, the residue of his quota being made up by his supporters in other places, he would be the third member entitled to be returned for Aberdeen.

Many other results may be supposed, to show the working of the system. Thus Lord Elcho, Mr. Baillie, Mr. Ellice, and the candidates mentioned as having a smaller number of Aberdeen votes, may all be elected by the constituencies for which they are candidates, and their names being thereupon cancelled on the Aberdeen voting papers, those votes will be given to the next candidate named on each paper. If such next candidate be Mr. Gordon (although it is of course improbable that all of them would be given to one person) the number of Aberdeen votes for Mr. Gordon would be raised from 225 to 1,039, and might, with his votes elsewhere, entitle him to be returned for Aberdeen. It would not follow in either of the cases last supposed, that, because the number of Aberdeen votes which are actually appropriated to Lord Elcho or Mr. Gordon may be few, the number of Aberdeen voters who have placed their names on their voting papers may not be very much more numerous. Many of the voters of that city who have voted for other candidates, successful or unsuccessful, whether they were candidates for Aberdeen or for other constituencies, may have placed the names of Lord Elcho or Mr. Gordon also on their voting papers, and these votes in the ultimate computation, as directed by the foregoing clause, and by a subsequent clause (XXVI.) will be reckoned as votes polled for the two unsuccessful candidates. Many of the votes given for Mr. Leith, Mr. Baillie, and others, might have contained also the name of Colonel Sykes, and many of the votes polled for Colonel Sykes might have contained also the names of Lord Elcho, Mr. Leith, and Mr. Gordon, and

therefore, although as to the first votes the state of the poll appears as it is above set out by the returning officer, yet on the ultimate declaration of the poll it is not impossible (although improbable) that Colonel Sykes and the other successful candidates, whoever they may be, had as many as 4,388 votes each. It would occupy a large space to describe all the possible results of the free manifestation of thought and sentiment which would be the consequence of the liberation and conscientious employment of the electoral forces which are now latent, and wasted or mischievously exercised.

It will be observed that the latter part of Clause XXII. which prescribes the ultimate method to be employed by the returning officers in computing the local majorities, is designed further to indicate and develop the especial preferences of local and special constituencies. In giving to every constituency its proper share or material weight in the actual composition of the representative body, it has been necessary to equalize the force of every vote by appropriating it to one candidate only. When the representive body is completed there is no longer any reason for refusing to any elector the full manifestation of the confidence he has expressed in the representatives of his choice, or for withholding from any member the moral influence which will naturally flow from the multiplied number, as well as the character of his constituents and supporters. The operation of this final method of computation may be further illustrated thus:—Suppose Norwich to return three members, and that there are six candidates, A to F, whose votes, counting not only those at the head, but also the second, third, and all successive votes given for any of them on the Norwich voting papers (so long as the name of a non-candidate for that city does not intervene), stand as follows:—

A	3,500	D	1,500
B	3,000	E	1,200
C	2,500	F	1,000

The Norwich voters are here supposed to have voted some perhaps for one of their candidates, some for two, some for three or more. Some voters may even have inserted all the names in the order of their preference. In the business of appropriation, according to Law XIX., taking the quota at 2,000, the first votes given to A will be reduced to that number, and the surplus of the first votes distributed to the next names on the various papers. The same process will take place with B, distributing the surplus of his [redacted] and any others which B may have acquired from the distribution of A's surplus, in like manner. But 4,000 Norwich voters are now exhausted, and in doing this, perhaps a large portion of the papers on which the names of C, D, E, and F stood, may have been exclusively appropriated to A or B, and served to complete the number required for their return.

Now it may be that C, D, and E are candidates of much local popularity, but without any considerable fame beyond the walls of the city, whilst F might be a person of an eminent political, scientific, or literary reputation, or a Norfolk gentleman regarded by some of the citizens as one of the worthies of their county. F, from these causes might have numerous votes in Norfolk, in the metropolis, in the universities, or in other parts of the kingdom, and thus be returned, although no more than 500, or a smaller number, of the citizens of Norwich had given him their first votes, or their second or third votes after A or B. It then becomes the duty of the returning officer under the foregoing clause—on receiving the registrar's certificate that F has, and that C, D, and E have not, obtained a quota or comparative majority—to return F as well as A and B as members for the city of Norwich.

It is probable in the supposed case of Norwich, as in that of Aberdeen, that many of the voters for the non-candidates who have failed, may have placed the names of some of the three successful candidates in a lower place on their voting

papers, and the ultimate declaration of the state of the Norwich poll may, therefore, show that each of the three successful candidates, A, B, and F, has a considerably larger number of Norwich supporters than appears in the first statement of the poll, given above.

The portion of the above law which makes it one condition of the return of a candidate for a particular constituency that [redacted] of the votes thereof shall not only have been tendered, [redacted]y appropriated to him, when coupled with the provisions of Clause XXIV., which regulate the appropriation of votes, according to the neighbourhood or nature of the different constituencies, constitute a further security that the members shall have an intimate and personal relation with the special constituencies by which they are severally elected. The votes so appropriated must be those of the constituencies for which they were candidates, and those who are nearest to, and most likely to be connected with, and interested in, the same localities.

A word may here be added to remove any impression which a superficial view of the supposed result of the Norwich election may create, that some injustice has been done to C, D, and E, or their supporters, by the election of F. The cardinal principle is, that no vote can be appropriated to, or affect the return of, more than one member; and, therefore, when the votes for A and B are appropriated, the whole, or a large part, of those given for C, D, and E, being on the same papers, would by that means be exhausted. None of them could be used to aid the return of more than one person. And as to the Norwich votes on which either C, D, or E were placed first, it may be assumed to the credit of those voters that they have sufficient knowledge of their contemporaries, and sufficient interest in political affairs, not to confine their appreciation to those candidates exclusively, but to have provided other alternatives in their voting papers, according to which their votes will be ultimately appropriated

to some member of like principle or character who may be chosen by the majorities or minorities of other constituencies.

The state of the Norwich poll, however, is not likely to be fully represented in the above table. Some citizens of Norwich might be natives of other parts of England, or of Scotland, or Ireland, and be influenced by sentiments in favour of candidates connected with such other [redacted] may have especial predilections overruling any loc[redacted] and desire to give such a direction to their votes as shall contribute to the return of candidates other than those who have offered themselves to the city of Norwich. Thus, in addition to the votes given for the candidates A to F, as above stated, suppose there are first, or first uncancelled, votes of citizens of Norwich for—

G	22	K	12
H	17	L	4
I	16	M	3

The registrars, having only to acquaint the returning officers of the ultimate result of the appropriation, will, under Clause XXV., inform them which of the candidates G, H, I, K, L, M, have, and which have not, obtained the necessary quota or comparative majority; but whether they have or not been thus successful, the Norwich return will not be affected, for A, B, and F are the successful candidates to whom the greatest number of the Norwich voters have given their primary and effectual support.

The discretion which some of the Norwich voters are thus supposed to have exercised, in setting a higher regard on general, national, intellectual, or social predilections, than on those which are governed simply by locality, cannot be a just subject of complaint by any of their fellow-citizens, for the voters so acting have done nothing which abridges or invades in the smallest degree the political power of the other inha-

bitants of Norwich, but, on the contrary, have in fact increased that power; for, in proposing for the choice of the electors of Norwich several other candidates, and voting for them instead of the Norwich candidates, those minorities of electors have, in fact, abdicated their power of influencing the Norwich return, and left the election entirely in the hands of the other citizens. At the same time, though [redacted] at Norwich, these small minorities are not necessarily so elsewhere. They may have had an important influence in assisting to complete the number of votes required for their favourite candidates, as is seen by looking at the fact which has been supposed to have taken place at this election, where a few of the voters of many other and perhaps remote constituencies, including possibly some natives of Norwich, who in distant places retain their affection for the place of their birth, have given to the 1,000 electors of Norwich—it may be of wider intelligence, higher intellectual range, or more comprehensive sympathies—the means of placing F in the position of one of the chosen candidates for that city.

One other hypothesis will suffice to explain the electoral position of such of the Aberdeen and Norwich voters, in the cases supposed, as may have placed the names of unsuccessful candidates at the head of their voting papers. None of these votes can be at first appropriated to any candidate whose name is placed lower on the paper; because, until the general election is over, it cannot be known whether the first-named candidate might not be one of those who succeed, and to whose success that vote may contribute. Under a subsequent law (Clause XXVI.) all votes in this condition will be appropriated to the highest successful candidate on each voting paper. If the highest successful candidate of the voting paper of an Aberdeen or Norwich voter be an Aberdeen or Norwich member, the returning officer will reckon him among that constituency; but however that may be, the voter becomes part of the constituency of the member whose name

stands highest on his paper, and in whom he has thus expressed greater confidence than in any other with regard to whom he has been able to obtain the concurrence of a sufficient number of his constituents. It is thus next to impossible for any elector,—except his sympathies be very narrow,—to fail of being represented by some one whom he has nominated for that purpose.

CHAPTER IX.

THE DUTIES OF THE REGISTRARS.

THE establishment of registrars of electors in London, Edinburgh, and Dublin, who may promote uniformity of action by the officers appointed to frame the local registers, and attend to their constant correction, forming a constant medium of communication in this important matter, would be of vast advantage, even if their duties ended there.[1] They

[1] The Select Committee of the House of Lords thus reported (26th June 1860), "The present system of registration is very imperfect, and fails to make effectual provision either for placing on the register all who are entitled to vote, or for removing from it names improperly placed there. Whatever *approach* to accuracy there is in the existing register seems to be mainly due to the voluntary agency of political associations." In a pamphlet on registration, by Mr. W. A. James, the author says:—"A thorough improvement of the system generally, and a new arrangement of the registers, may be made conducive to many reforms in the present mode of completing parliamentary elections. There is no reason why the provisions for registration should not afford every protection to the rights of individual electors, and entail no trouble or annoyance, or why the register should not be accurate and perfect. It is simply a matter of business detail, in which few difficulties are presented, and these such as may be overcome. Much practical experience has been gained, which was wanting at the passing of the Reform Bill of 1832, and may be brought to bear in constructing and perfecting machinery which shall effect all the results desired. Any reform to be satisfactory must not be a mere patching up of the present system by amending it in isolated defective parts, but deal comprehensively with the whole, and in a manner in keeping with the change of circumstances time has introduced." "The facilities derived from a vast network of railways and steam-navigation, the rapid interchange of intelligence by the electric telegraph, numerous post-office

may yet perform other very important functions in facilitating the action of voters, saving the expense and labour of travelling, and affording the means of receiving the votes of electors unable to attend personally. On these points, and others which are not necessarily connected with the scheme of representation which it is the chief purpose of the present tract to submit, something will be said in a subsequent page.

Some portion of the duties of the registrars, in respect of this system of forming the representative assembly, has been necessarily mentioned elsewhere. They are to superintend all the local and other registers of electors, ascertain and certify the quota of voters at general elections,[1] and conduct the occasional elections.[2] They are to receive the names of the candidates, and the payments suggested, which will form a fund to be called the "Registrars' Fund," applicable to the support of the establishment, and the expense of performing its various duties;[3] and they are to publish the lists of the candidates in the respective Gazettes, and transmit copies to the various constituencies.[4]

The registrars, in their duties of sorting and appropriating the votes which are forwarded to them from the various constituencies, will be strictly governed by prescribed rules calculated most perfectly to give effect to the will of every individual elector, as expressed on his voting paper.

The returning officers at the general election which is now supposed to be in progress will in many of the larger cities

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reforms, the advantages of book-postage and registered letters, the perfect system for the registration of deaths, and a hundred other like improvements, were unknown when the 'Registration Clauses' were under discussion. All these may be brought to bear practically upon the business of registration, and tend to its perfection." (P. 61.) That the registration of electors should be allowed to remain in its present state is a lamentable proof of the utter insincerity of public men on Parliamentary Reform.

[1] Clauses I. and III. [2] Clauses XXIX., XXX., and XXXI.

[3] Clause VII. [4] Clauses VIII. and IX.

tuencies, have been enabled to make their returns of members; and in those places it will be only the excess of, or unappropriated, voting papers that will be transmitted to the registrars. The completed returns will have greatly reduced the aggregate number of voting papers of which the results are undetermined,—the number unappropriated, however, would be still large. In addition to these there would be the whole of the votes given in the smaller constituencies, which have not singly sufficient electors to make up a quota, and in others, where a sufficient number had not concurred in doing so.

A large amount of clerical or mechanical labour will, of course, be necessary in dealing with the mass of documents thus brought to the offices of the registrars, and an extensive space must necessarily be occupied as office room for the few days during which the sorting and appropriation of the voting papers are in progress; but neither will probably be greater than is employed daily at the General Post-office.

The registrars will have a small permanent establishment of experienced clerks attached to their several offices. They will, on the occasion of a general election, have the assistance of the poll-clerks from the local constituencies, by whom the lists are brought from the returning officers, and of whom all the more efficient may be retained during the business of the appropriation of votes. Of these clerks there will be 400 or 500, or more. They may be further assisted by a sufficient number of clerks of character and experience, permitted to attend, at extra remuneration, for two or three days, from other public offices. The services of the several classes of clerks thus employed will be paid from the "Registrars' Fund."

At the point to which the election is now supposed to have reached, the registrars have before them the certificates of the various returning officers, and the voting papers which have accompanied them. Their duties, and the

laws by which those duties are to be regulated, have now to be stated.

Some of the registrar's clerks being provided with tables of the names of the candidates arranged alphabetically, at the head of distinct columns, like the tabular book before described,[1] the number of votes expressed on the returning officers' certificates to have been given for every candidate may be called over, and speedily entered under the names of the respective candidates, thereby showing how many votes every candidate has received, according to those certificates. This process, when completed—which it would probably be in an hour or two,—will show that many candidates who have been returned as elected by the constituencies which they named first in the gazetted list,[2] have received votes in other constituencies. This will doubtless be the case to a great extent with all men of high character and eminence. In all such cases, the names of the members so previously returned will be cancelled upon the voting papers in which their names are repeated, in the manner directed by Section XIX.

The registrars have then to address themselves to the cases in which no returns of members have been made. The numbers of votes expressed in the certificates of the returning officers have now ceased to be guides, as to many candidates for by displacing the names of the members who have been already returned, the names of other candidates are brought forward to the first place on many of the voting papers, which will make so many additions to the votes now to be counted for such other candidates. The extent of this alteration will be readily ascertained by the use of the tabular books which have been mentioned. Every clerk having the charge of the voting papers of a constituency will in a few minutes ascertain the numerical variation effected in those

[1] Page 157. [2] See Clause XXI.

papers by the cancellation of the first names upon a certain portion of them, and can report the result of such alteration, —that is to say, what additions are thereby made to the votes given for other candidates. Additions will continue to be made in like manner as the other quotas are completed, and thus the name of every candidate having the quota will soon be ascertained. The completion of such quotas must then be certified by the registrars to the returning officers of the several constituencies, where votes for such candidates have been polled.

XXIII. The registrars respectively, as soon as it appears by the voting papers appropriated to the respective candidates (according to the rules herein contained), that the quota of votes has been polled for any candidate, shall forthwith transmit a certificate of that fact to the returning officers for the respective constituencies in which votes have been polled for such candidate or candidates, stating therein the number of votes of every constituency respectively which have been appropriated to make up such quota.

The duty of the registrars, as well as of the returning officers, with regard to setting apart the voting papers appropriated to every candidate, as soon as the appropriation has been finally made, and also with regard to the cancellation of the names of the same candidates, wherever they occur, on the remaining voting papers, has already been prescribed.[1] The same clause also points out the order in which the voting papers shall be taken, up to the point at which they cease to be under the jurisdiction of the returning officers. It is now necessary to prescribe other rules as to the order in which the votes shall be appropriated to the candidates, in cases which cannot be dealt with by any particular returning officer, because the representation of two or more constituencies is involved. In these arrangements,—after disposing of the votes of the particular constituency or constituencies for which a candidate has offered himself,—it is important that there should, in the subsequent appropriation, be a prescribed order to be followed without possibility

[1] Clause XIX., p. 161.

of deviation, that the result may of necessity be accepted without the possibility of complaint.

It should be observed that the proposed law is now framed in contemplation of the cases of candidates who are found to have, amongst the unappropriated voting papers of different constituencies, more than the quota of votes; and the simple point to be determined is, which of such votes shall be actually and finally appropriated to the several candidates having such excess of votes, and which of such votes shall go over to another candidate standing lower on the voting paper.

XXIV. The registrars shall, in the appropriation of the votes, proceed according to the following rules:—

A. If the candidate be a candidate for the representation of several constituencies, and shall not have been returned as a member for the constituency that appears by the gazetted list to be the first constituency for which he has declared himself a candidate, there shall be taken for him,

1, the votes polled for him in such first-named constituency;

2, then the votes polled for him in the second and third-named and other following constituencies, for which he has so offered himself consecutively;

3, then the votes polled for him in the remainder of the constituencies of the United Kingdom in the order hereafter mentioned.

B. If the quota of any candidate be not made up of votes polled for him in the constituency or constituencies for which he has, as appears by the gazetted list, offered himself as a candidate, then,

(*a*) If he be a candidate for a county or a division of a county, or other district, comprising within its geographical limits any borough or other local constituency, there shall be taken for him,

1, the votes polled for him in the constituencies comprised within such geographical limits in the alphabetical order of the names of such borough or local constituencies; and

2, then the votes polled for him in the boroughs or local constituencies nearest to any part of the external boundary of the said geographical limit successively, in the order of their proximity, so far as they shall be included within an area of [twenty] miles from such boundary;

3, then the votes polled for him in other local constituencies, in their alphabetical order;

4, then the votes polled for him in the constituencies of the universities, colleges, and other bodies, not restricted to geographical limits, in their alphabetical order:

(*b*) If he be a candidate for a local constituency, but not for any county or division of a county, or other district, having within its geographical limits any borough or local constituency, there shall be taken for him,

1, the votes polled for him in the county or division of a county, in which the local constituency for which he is a candidate shall be situated, in the order of the proximity of the locality in which such votes are registered;

2, then the votes polled for him in the remainder of the local constituencies in their alphabetical order;

3, then the votes polled for him in the constituencies of the universities, colleges, and other bodies not restricted to geographical limits, in their alphabetical order.

(*c*) If he be a candidate for any university, college, or other body, not restricted to geographical limits, there shall be taken for him,

1, the votes polled for him in all other like constituencies not restricted to geographical limits, in their alphabetical order;

2, then the votes polled for him in the local constituencies, in their alphabetical order.

Provided always, that the votes polled by electors of constituencies of England, Scotland, or Ireland, respectively, shall be first taken for the respective candidates for whom the same are polled, who are candidates for constituencies in the kingdom in which such votes are polled, and then the votes polled in any of the same kingdoms, for candidates for constituencies in the other kingdoms respectively, in the order in which the same are above expressed, and subject to the rules of appropriation herein contained. And in order to carry out regularly and invariably the said rules, the registrars shall before every general election prepare, revise, and jointly sign, tables showing the relation of every local constituency, in respect of proximity to the other constituencies, within the respective limits aforesaid, and also showing the alphabetical order of each class of the said several constituencies in England, Scotland, and Ireland respectively, and the votes shall then be taken in the order expressed in such tables.

The Rule B., which may perhaps be modified and rendered more complete, is designed to give due effect to all local

attachments and legitimate influences arising from family, traditional, territorial, or other causes. It will give to every landed proprietor the opportunity of connecting himself, or preserving his relation politically with the district in which his estates are chiefly situated, by enabling him to select a constituency embracing that portion of the country. There is no sound reason for any jealousy of such natural connections,—on the contrary, they are capable of being made the sources of some of the most inestimable of social benefits,—and which more than compensate for their occasional abuse,—an abuse which, there is reason to hope, will be constantly less and less frequent, and will cease altogether as interest and duty become obviously in harmony, and every proprietor feels that his influence depends upon the existence of an attached, a populous, and an instructed neighbourhood.

The voting papers liberated from the claim of one candidate, as his quota is completed, become votes for the next candidate who is mentioned upon them, and, being appropriated to him, will go to make up his quota. The same process of completion and cancellation will go on, according to the rules which have been stated,—hour by hour, with great rapidity, until the time comes when the remaining voting papers,—still taking only the names of the candidates which from time to time are thus made to stand first in every paper,—do not furnish enough to make up the quota for any remaining candidate. The process has been simply that of sorting the voting papers and arranging them under the several names which appear uncancelled at the head of every paper; and as each new quota has been completed and set apart, and a member thereupon returned, the name of such member has been cancelled on all other voting papers except those which are thus set apart.

At this stage of the election,—as a quota is no longer found for any candidate, and as no voting paper can be appropriated to any name standing below the first, so long as

the first is still unchosen and there is a possibility of his being elected, it becomes necessary to introduce another rule for ascertaining on which of the remaining candidates the choice of the remaining electors has fallen. Let it be supposed that 1,227,274 voters (the whole number on the register in 1857, as before stated) had polled at a general election,—that number being divided by 654, the quota would be 1,876 ⅔, and let it also be supposed that by the process of appropriation of votes, up to this stage of the election, 300 candidates have received the quota and been returned. In this state of things 354 members are still wanting to complete the House; and as the election of 300 members has necessarily disposed of 562,800 votes, every elector of that number being represented by the man whom he has chosen, —there remain 664,474 votes unappropriated, and which are applicable to the election of the 354 members yet to be elected. Let it also be supposed that there were originally 1,800 candidates,—somewhat less than three for every seat, and therefore that of these candidates 1,500 still remain whose success or failure is undetermined.

A degree of complication which now appears unnecessary was introduced into this system, in its inception, and formed the subject of two of the clauses of the electoral law, as it was formerly proposed. It was occasioned by the pursuit of what upon a fuller consideration appears to be really unimportant,—that is, a perfect uniformity in the number of the quota of votes for every member.[1] Nothing is really gained by such an equality or uniformity, and it is even less favourable to the object of representing minorities than the method which has been substituted. All that it is necessary to provide is, that, whatever number of persons be permitted to return a member, his election shall be a result of the deli-

[1] A method by which this was attempted, between the publication of the first and second editions of this work, is shown in the *Journal of the Statistical Society* for September, 1860, pp. 351-2.

berate choice of every one of them; and that the electoral law shall apply the same rule to all voters without any design to give inordinate or special power or advantage to any person, class, or locality, on the assumption, rarely if ever just, in fact, that such person, class, or locality will act with more wisdom or honesty than others possessing on the average similar moral and intellectual qualities.

The attempt to obtain an equal quota for all, led to the adoption of a process for eliminating the names of the candidates having the smaller number of votes. This was done by cancelling their names, one by one, and thus raising on every voting paper the next name in succession to the place of the cancelled candidate, and thereby at each step bringing some other and uncancelled candidate nearer to the attainment of the quota. Following out this idea, it was, in the first edition of this work, proposed, at this stage of the election, to cancel on the voting papers, first the name of every candidate who had not, on the unappropriated voting papers, a number of votes, including both actual or contingent votes, amounting to the quota; and if (as was most probable) the appropriation made after that process should still fail to complete the House, then to compute the number of all actual and contingent votes for each of the remaining candidates on the unappropriated voting papers, and take out, one by one, those who had the smallest number, until none but the required number of favourite, and therefore selected, candidates should remain.

The term "elimination" may be used to describe the method by which the excluded candidates are withdrawn. If no more than a hundred are to be chosen out of a thousand, however the process be conducted, nine hundred must be eliminated. Whether we begin at the least popular names and proceed upwards, cancelling the names until the hundred only are left, or begin by electing the highest on the poll, and descend until the hundred shall be chosen, and the re-

maining nine hundred excluded, the result, if the name at the head of every voting paper be alone regarded, will be the same; but if the principle of contingent voting, the only method yet suggested for preventing uncertainty of action and an incalculable waste of the electoral power, be adopted, and the cancellation of each name be followed by giving the vote immediately to the next name on the voting paper, the result may be very different. It is convenient, therefore, to distinguish these methods by describing the upward process as one of *elimination*, and the downward process as one of *selection*.

Of the several methods of elimination which have been conceived, there is none which does not involve much labour, and none which is not open to other and more serious objections. It is, however, desirable that each process should be stated and considered, the better to test the comparative merits of the method of appropriation which has been ultimately adopted, and which is now proposed, as a rule not only superior to any other method which has yet been suggested, but possessing every quality that is practically needful.

1. The reduction of the number of candidates remaining at this stage of the election may be effected by taking out the names of all those who have the smallest number of actual votes,—that is, who are named at the *head* of the smallest number of voting papers, and appropriating each vote to the candidate standing *next* in order on each paper, until only so many candidates are left as shall be sufficient to fill the house. This process might have the effect of cancelling, step by step, more votes given to one candidate than become sufficient to return another: for example, of candidates named from A to Z there may be four to be chosen. A may have 150 votes at the head of so many voting papers: Z may have 50. The 50 votes of Z being cancelled, the 50 voting papers thus dealt with might go to increase the numbers of the other

candidates. Y may have 100 votes; upon his name being cancelled, it is possible that the next name on these 100 voting papers might be Z. Z must then be again cancelled. There may then be 100 votes for X to be cancelled, but these votes also, like those for Y, may contain, in the next alternative, the name of Z, which are thus again to be cancelled. This may be repeated, as the candidates are gradually reduced to four, until many more votes for Z, or others, may be cancelled than are found to be sufficient to place A and B, or others, at the head of the poll, and therefore secure their election. The accident of certain candidates having, at a particular stage in the election, more first votes than others, is, by this method, made to operate not only at that moment, but in all subsequent stages of the computation, by giving those fortunate candidates an advantage over the others, in the exclusion of the voices of their supporters, even when the preferences they have manifested, by the position in which they have placed such other candidates, are far stronger than the preferences shown by the voters for the more fortunate candidates. Thus, in the supposed case of cancelling the 100 votes given to X, it is possible that all the votes then appearing for Z, and which are excluded, may have been originally second votes, while in the voting papers then advanced for the use of A, his name might have originally stood in the third, fourth, or any lower degree. All the names on the voting paper of any elector might be struck out, one after the other, notwithstanding the greater eminence or popularity of any of them, as compared with the successful competitors; and, indeed, the advantage which the latter have acquired becomes greater, and the difficulty of their being displaced, by the supporters of any of the other candidates, increases with each cancellation. There is little probability of this advantageous position being disturbed, and the result, after all, is not unlikely to be the same, at the end of a protracted and laborious process, as it would have been if the comparative majorities,

as they stood when it began, had been allowed to determine the election.

2. The elimination of the candidates having less of public support, may commence with the candidate having the smallest number of votes actual or contingent,—or, in other words, the candidate whose name is mentioned on the smallest number of voting papers, whether at their head or in any other position upon them; and this being ascertained, by cancelling the name of such candidate throughout the unappropriated voting papers; then that of the next candidate in like circumstances, and so on until only so many are left as shall complete the House.

The first observation on this process is, that it gives an undue weight to mere aggregate members,—or to the multitude as compared with the few,—a preponderance which is the great danger of popular government. This effect is immediately seen when it is considered, that, by counting every name on every voting paper for the purpose of determining which candidate is the least popular that the elimination may begin by excluding him,—the effect of each paper is multiplied in the ratio of the number of names which it contains, and thereby a multiplied force is given to the combinations of large bodies of voters, or of parties, which would enable them, by the use of prepared or printed lists of candidates, to overpower the deliberate voices of the less numerous classes, and the more thoughtful electors. Although the party nominees could not be elected until their votes severally reached the quota, or placed them at the head of the poll, their success would indirectly, and scarcely less effectually, be promoted by the cancellation of the names of other candidates who were put forward by smaller numbers of voters, and who were, therefore, the first to be excluded.

3. Every computation of actual and contingent votes which gives them an equal value, or which, in other words, permits a vote that may be in the middle or at the bottom of a list of

thirty, forty, or fifty names, to have the same numerical weight in the election or rejection of a candidate that is given to the vote which the same elector has placed at the head of his voting paper, is radically inconsistent with the principle which it is the design of this system to embody,—that of giving to no vote more than a single voice, and that this voice should be the expression of the highest and most deliberate preference of the elector. The name which is placed first on every paper is that of the candidate for whom the elector votes. The subsequent names, however they may, for a contingent purpose, express relative preferences, are not to be regarded so long as the prior name remains uncancelled, and is capable of being chosen. If, therefore, the same weight be given to the name which is, say, the tenth, on the voting paper of A, as is given to the name which is first on the voting paper of B, positive injustice is done by disregarding the will of B, to a far greater degree than the will of A can be said to be obeyed. The very moderate or faint appreciation of one is balanced against the highest expression of the preference of the other. To moderate this consequence it was first suggested that the value of every vote, for the purpose of determining the order of elimination, should be computed by its position on the voting paper.[1] The computation would be very laborious, but that being a merely mechanical difficulty, would be overcome. A more serious objection is, that it is open to the vicious operation already referred to, of enabling numbers to obtain, by organization, an undue preponderance.

4. Instead of computing the number of repetitions of the name of every candidate on *all* the voting papers, which will probably exceed a million in number, and many of which would remain with the returning officers of the various constituencies of the kingdom, it was in the first edition of this

[1] See Appendix C, and the observations in the latter part of Appendix D, pp. 22–55.

work proposed to diminish the labour of computation, by including in it none but the unappropriated voting papers after the first part of the election had been completed—namely, only the 664,474 remaining votes in the stage of the particular election now supposed. This, however, would be inequitable to the extent in which it gave an undue weight to the unappropriated over the appropriated voting papers. If, for example, one of the unappropriated voting papers should have upon it thirty uncancelled names, and it be referred to and counted thirty times on the computation which is to determine what candidates are to be excluded, it has obviously a far greater force than any appropriated paper which, on the return of the candidate nominated upon it,—although there might have been fifty names below,—had been immediately allotted as one of the quota of the elected member, and thereafter referred to no more.

The reference to these rejected methods may be concluded by observing that whatever might be the labour they would involve, there is no doubt that it would be willingly encountered and overcome, even if it be only in the pursuit of the invaluable satistical knowledge of the progress of society, thought, and opinion, which the voting papers would abundantly furnish to the student of historical science.

5. The method which has been adopted,—that of selection,—remains to be considered. Recalling this stage of the election, it will be remembered that there are supposed to be 664,474 unappropriated votes, and 1,500 unchosen candidates, which, if the votes were equally divided, would afford 442 for every candidate. They would be very unequally divided. Some names would probably not appear at the *head* of any of the voting papers, and some at the head of very few, and it will follow that some candidates will have many more than 442 votes. Now, it is obvious that by merely sorting the voting papers, and placing together all those which have at their head the name of the same candidate, the number of actual

votes for every candidate may be readily counted and ascertained. It will thus be the work of an hour or two to appropriate to the candidate whose name is at the head of the greatest number of voting papers all the voting papers in which he thus stands first. These, from the previous appropriation of all the quotas, will necessarily be less than 1,876 for any candidate. The same process of appropriation will be pursued as to the candidate having the next greatest number, and so on until the remaining 354 members shall have been thus selected. As soon as the idea of a necessarily uniform quota is abandoned, this method of selection becomes practicable. It is a method of great simplicity; and where many candidates, even with moderate chances of success, are of necessity excluded, and many first votes may be ineffectually given, no scheme has been devised which is more, or even equally, equitable. It is unfair to none. It is not open to the objections which apply to the elimination of candidates named at the head of the voting papers, in the inverse order of number, which was first adverted to. The voting papers would be far less susceptible of being moulded for party purposes than under any of the other schemes which have been considered; and the system would give no undue preponderance to mere numbers, but, on the contrary, would even tend to increase the weight of smaller bodies of thinking men. It is in conformity with what should be an electoral canon, that the will of the elector and not that of the candidate must prevail, wherever there be any conflict of the one with the other. The will of the elector is expressed by the position in which he places the candidates on his voting paper. His vote is given for the first name, and, until that name be disposed of, he has given no vote for any other. The subsequent names are only provisions for contingencies, which have no operation until the contingency happens. When it arises, but not until then, the second or other vote acquires the weight which was previously confined to the first. The method of selection

gives full effect in every case to this electoral will. It may be embodied in the following law:—

XXV. When the votes shall have been appropriated to all the candidates who have obtained the quota of votes respectively, according to the foregoing rules, the registrars shall then cancel the names of all such last-mentioned candidates as stand before all others on the unappropriated voting papers, and shall sort and arrange the whole of the unappropriated voting papers, allotting them to the remaining candidates whose names are after such cancellation at the head of the same voting papers respectively, and shall compute the number of votes which have been given for the respective candidates whose names remain at the head of the respective voting papers as last aforesaid; *and* thereupon the registrars shall make and sign a declaration, first, of the names of the candidates who have obtained the quota, and secondly, of the number of votes so given for every remaining candidate, which declaration shall be forthwith published in the London, Edinburgh, and Dublin Gazettes; *and* so many of the said remaining candidates as shall, together with the candidates who have previously obtained the quota of votes as aforesaid, be sufficient to make up the whole number [654] of members to be chosen, each and every of whom shall, respectively, have polled *a greater number of votes than any other* of the said remaining candidates, shall, upon the receipt of the registrar's certificate, be returned as members to serve in Parliament, by the returning officers of the constituencies of which they have respectively polled a majority or majorities of votes as hereinbefore provided;[1] *and* if, upon such computation by the registrars, it shall appear that two or more of such candidates having such *comparative majorities* of the unappropriated votes as aforesaid, have polled an equal number of votes, and cannot both or all be returned as members as aforesaid, then preference shall be given to the said candidates in the order of their priority in the gazetted lists of candidates prepared as hereinbefore provided,[2] and if the said candidates shall be on different gazetted lists, then in the order of their priority if they had been upon the gazetted list for the same part of the United Kingdom; *and* to the end aforesaid the registrars shall, with all practicable speed, certify to the returning officers of the constituencies in which the said votes have been polled for any of the said remaining candidates, the names of the candidates who have polled such *comparative majorities* of votes as aforesaid, and the number of votes appropriated to them from each constituency, excluding, where two or more candidates shall have been equal, and cannot both or all be returned, the name or names of the candidates who have not the preference in the order of priority as aforesaid; *and* if they be still equal, preference shall be given to a candidate for a constituency in Ireland before one for Scotland or

[1] Clause XXII., p. 166.

[2] Clause IX., p. 96.

England, and to a candidate for a constituency in Scotland before one in England, and to a candidate for a smaller before one for a larger constituency; *and* the registrars shall also, as soon as possible, certify to the returning officers of the constituencies in which the said votes have been polled, the names of all the candidates who have *failed to obtain a quota of votes, or a number sufficient to form one of the said comparative majorities* being equal to one of such majorities have been excluded as *not having priority* as aforesaid, signifying that in consequence thereof such candidate cannot be returned at that election as members to serve in Parliament.

In explaining the effect of such a law, it has been observed that the number of the supposed votes, distributed equally amongst the 1,500 candidates, would give 442 for every candidate. Assuming that there are as many candidates who have more as there are who have less than this medium number, and that the number advances upwards from 442 to the highest number,—namely, 1,875 (or one less than the quota), and recedes downwards from 442 to 1 or 0, by gradual and proportionate steps, the votes of each of the 354 highest candidates would vary from about 1,300 to 1,800 and upwards, and amount in the aggregate to about 568,000, leaving the residue or 96,474 votes to the remaining 1,146 candidates, who would have polled severally from about 1,300 to 0, and all of whom would, therefore, be unsuccessful.[1]

It is scarcely possible at present to calculate the probabilities of variation in the number of votes which every one of 1,500 candidates would poll, dependent as it must be on the different degrees of popularity, celebrity, or obscurity of the candidates, and of knowledge and ignorance, prejudice and partiality, in the electors. All these combined circumstances, and all other disturbing causes, will, there is no doubt, when the system shall be in operation, be found to operate

[1] This calculation must not be dismissed without referring to the important effect on the numbers of every constituency which would be produced by adopting the dividend referred to in p. 25 (n. 1), an explanation of which is reserved for the Appendix E. On the poll above contemplated the quota would be reduced from 1876 to about 1700, and therefore brought much nearer the lowest of the comparative majorities.

with such average regularity as will enable the relative proportions of the votes which will be distributed amongst a given number of candidates, to be predicted with something approaching to certainty. In the absence of such data,—considering the far greater probability of 354 persons being extensively known and valued by a vast body of electors, than of 1,500 persons being generally known and appreciated, the result arrived at by the foregoing calculation will not be thought otherwise than probable. It leaves somewhat less than one vote in thirteen without influence on the return; or, in other words, more than twelve electors out of every thirteen in the kingdom, who have voted at the election, are represented by the member whom they have individually as well as collectively resolved to appoint.

Although one-thirteenth of the electors may thus have failed to influence the actual election, yet it will be observed that not a single vote has therefore, necessarily lost its effect as one of the indications of public opinion, nor been without its moral weight. None of these electors may, in fact, be unrepresented. Every one, on this system, is invited to insert in his voting paper the name of every candidate by whom he would be willing to be represented, and not merely the name of him whom, above all others, he would desire to elect; and it will be seen, that, under the law of appropriation, the reserved voting papers, or those which are the last to be appropriated, are, other things being the same, those which contain the greatest number of contingent names.[1] Upon the 96,474 voting papers which, in the supposed circumstances, have not been appropriated, there will, in a large number of cases, be other names besides the name of the candidate at the head of the paper, and amongst these many names will be those of some of the 654 candidates who have now either completed their quota or obtained one of the comparative

[1] Clause XIX., p. 161. The only exception is that introduced in regard to localities. See p. 180.

majorities. Every vote, therefore, of the remaining 96,474 which, as one of its alternatives of choice, contains any such name, may now be appropriated to that candidate, or rather member, of the 654, whose name stands highest on the particular voting paper, and the elector thus becomes one of the constituency of that member. If he be not represented by the man whom he would above all desire, because he cannot procure a sufficient concurrence of opinion or sentiment for his election, he is represented by the man who stands highest in his favour for whom that concurrence can be obtained. It is of no importance that the members would have been chosen without the assistance of the electors whose votes are thus ultimately appropriated. No one before the election could have been sure of that result, and the confidence in and sympathy with the candidate, shown by the elector, is precisely the same at whatever time it may come to be known and counted. The connection between the elector and the candidate depends in no respect upon the time at which the vote is appropriated; nor does the variation in the numbers of the constituencies which the ultimate appropriation of votes may introduce, derogate in any degree from the true principle of representation. *A* is not the less perfectly represented by *Z* because *B* and *C* have likewise chosen *Z* to represent them. We do not refuse to confide our interests to a particular counsel or attorney because his eminence in character and ability has led a great number of other persons to appoint him as their counsel or attorney also. We rather expect his power to be of service to us, will be greater from that very cause.

XXVI. After the number [654] of candidates having the quota, or a comparative majority of votes, shall be complete as aforesaid, every voting paper which shall still remain unappropriated, upon which there shall be the name or names of any of such last-mentioned candidates, whether the same be or be not cancelled by the returning officers or the registrars as aforesaid, shall be appropriated respectively to such of the said last-mentioned candidates, whether his name be or be not so cancelled, as shall appear, or if

more than one, as shall be highest, on every such voting paper respectively; and the elector by whom every such voting paper respectively shall have been polled shall, for all purposes, form part of the constituency of the member to whom the same shall be so appropriated.

If we suppose nothing more than the most ordinary degree of acquaintance with the names of a few public men, or even of one, coupled with that degree of interest in public affairs which would induce the voter to be at the pains of exercising his franchise, it is possible, and not even unlikely, that every elector in the kingdom who may take the trouble to vote, will be represented by a candidate whom he has especially named and selected. By fixing on any candidate of high and general reputation, the elector will be morally certain of securing him, if no other, as his representative in the national councils; and where the elector does not rely exclusively on one name, but introduces different names, as so many alternatives, the system affords a practical application of that principle of compromise, the adaptation of the will, the pretensions, and the conduct to circumstances,—the yielding something of which we are less tenacious to secure that on which we set a still higher value,—which is of such potent influence and incalculable value in political as well as in social life. The voter expresses in effect his wish to be represented by the second person named on his paper if he cannot be by the first,—by the third if he cannot be by the second, and so on. Instead of crushing the opinions or sentiments of any elector, it leads him by a gentle and unresisted constraint to blend and harmonize them with those of others, until a voluntary unanimity is attained.

No occasion must be given for any doubt of the fidelity of the process of appropriation to the directions of the electoral law. Scarcely anything impairs more insidiously or fatally the public respect for a representative assembly, and the public confidence in it, than the suspicion that its seats have been filled by arts or contrivances which detract from its

character as the true embodiment of the deliberate will of the nation. It will therefore be desirable to provide for a satisfactory verification by the public of the electoral result, and for a permanent record of it.

XXVII. The registrars shall, on the final appropriation of the voting papers, indorse on every voting paper the name of the candidate to whom it has been appropriated; and after such indorsement shall have been made, the registrars shall give all due facilities to candidates, agents, and others, at their own cost, for verifying the results of the poll, and inspecting the voting papers; and such cost shall be settled by the registrars, and shall not exceed the amount of the due remuneration of the clerks of the registrars attending on such inspection; and the registrars shall cause to be printed, in a separate book for every member returned under their certificates as aforesaid, the names of the voters whose voting papers have been appropriated to such member respectively, and copies of every such book shall be sold at a price not exceeding the rate at which papers printed by order of the House of Commons are sold; and after sufficient time shall have been afforded for the purposes aforesaid, as well as for gathering from the voting papers such statistical or other information as shall be thought useful, the registrars shall cause all the voting papers to be redelivered to the several returning officers respectively from whom the same were received, and with whom they shall remain; and the same shall, with the voting papers set apart and retained by the returning officers as aforesaid, be arranged in distinct volumes or files, every distinct volume or file containing the votes appropriated to one member or candidate only, and the votes within every volume or file shall be arranged alphabetically according to the names of the voters; and on a copy of the list of the registered voters, opposite to every voter's name, shall be noted the number of the volume or file in which his voting paper is placed; and the same shall be at all reasonable times accessible to voters, candidates, and others requiring to inspect them or any of them at their own cost, and which cost shall be settled by the returning officers, and shall not exceed the due remuneration of the clerical labour and attention on such inspection; and every elector shall be at liberty to refer to and examine his own voting paper without cost.

The publication of separate books, containing the names of every constituency, will be calculated to afford satisfaction to the elector, whilst it will constantly tend to preserve the reality of the connection between the member and his constituents, and render it still more a matter of individual pride not to be unworthily represented.

It will be necessary to provide for the possibility of a candidate being elected by a sufficient number of voters to make up the quota, and who yet may not be in a position on the poll of any particular constituency to entitle him to require that the returning officer shall return him as elected by it. Suppose, for example, that there were 700 different constituencies, and a candidate had three votes in every constituency, he might have the quota, or a comparative majority, but not a majority in any place. The supposed state of things is of course highly improbable, but there ought to be no possible defect in the operation of machinery designed to act perpetually, and under all circumstances. If any cases should arise, such as has been supposed, it may be left to be dealt with by the House, upon a form of proceeding which the candidate, or any of the electors interested, may be allowed to initiate.

XXVIII. When it shall appear by a certificate of the registrars that any candidate has polled such a number of votes as shall amount to the quota, or to a comparative majority, and he shall yet not be returned by any returning officer as a member to serve in Parliament; and such candidate, or any of the electors by whom he has been chosen, shall present a petition to the House of Commons stating such facts, and praying that he may be admitted as the representative of such particular college of electors, it shall be lawful for the House, upon hearing the said certificate of the registrar, to declare, by resolution, that the said candidate has been duly elected as a member of the said House, and such declaration shall have the same effect as if he had been duly returned as a member under the writ.

The appropriation of votes, under the system which is proposed, affords peculiar facilities for supplying in the House, without any turmoil, and without affording an opportunity for bringing party manœuvres to bear on local contests, the vacancies which may occur between one general election and another. Every quota or majority of the voting papers containing the votes by which a member is elected is distinctly preserved, and every voting paper bears the name and address of the voter. The constitutional principle which requires every member, on accepting any office from the Crown, to

submit himself for re-election, will be effectually maintained or extended, and even exercised with more wholesome effect, by giving to a certain number—as a fourth part—of the electors which form the constituency of the member who has accepted office a veto on his retention of the seat. Whether a distinction should be made between certain high offices and others, as was proposed in the bill of 1854, may be possibly a question. Such a distinction might be made without abandoning the principle of resigning, by providing that, in the case of such offices, the veto shall, if exercised, be that of a larger proportion, as half or three-fourths of the constituency.

XXIX. If any member shall after his election accept any office under the Crown, or on the appointment of any Minister of the Crown by virtue of his office, such member shall signify the same to the registrar or registrars of the part or parts of the United Kingdom for a constituency of which he has been returned; and the returning officers shall cause circular letters to be addressed to all the electors respectively who form the constituency of the said member, intimating such acceptance of office, and acquainting such electors that the registrar or registrars will, at the end of three weeks from the date of the said notice, certify to the Speaker of the House of Commons whether any, and if any, what number of such electors, shall have in writing, in a form thereby set forth, signified their dissent to such member continuing to represent them, and also acquainting them, that unless [one-fourth] of such electors should signify such dissent by letter to the said registrar within the time and in manner therein mentioned, the said member will be entitled to sit in Parliament, as theretofore, notwithstanding such acceptance of office, and that if [one-fourth] of the said electors should so dissent, then the seat of the said member will be declared vacant.

The Act would go on to exempt the member from the penalties for sitting and voting in Parliament in the case of the certificate by the registrar that the prescribed proportion of the constituency had not dissented to his retention of his seat, and to exclude him, if the certificate were to the contrary effect,—namely, that such proportion of the electors had so dissented.

In the event of a seat being declared to be vacant by the acceptance of office by a member, and the dissent of the proportion of voters, ascertained in the manner which has been

suggested, or if a vacancy be occasioned by the resignation of a member (which should be permitted), or by his bankruptcy, or any other proper disqualification, or by death, the returning officers, on receiving the direction of the Speaker to that effect, may transmit circular letters to the address of every elector forming the constituency of the member whose seat is so vacated, and enclose therein a letter and a voting paper, in a prescribed form, specifying the day at which it is necessary that the same should be transmitted to the registrar's office, in order to be effectual for the election of a member to supply the vacancy.

In these occasional and intermediate elections, whilst new candidates may be required to make the payment [of £50] as at the general election, any unsuccessful candidate at the preceding general election may be entitled to have his name included in the list of candidates to be sent to the electors for the choice of the constituency, on his requisition to that effect, and on a payment which, if anything, may be little more than nominal.

XXX. When a seat shall, for any cause, be declared to be vacated, the returning officers, on receiving the direction of the Speaker of the House of Commons to that effect, shall, by a circular letter addressed to the electors forming the constituency of the member who had filled the vacant seat, acquaint them of such vacancy, and shall at the same time transmit to the said electors a list of all the candidates for the same, arranged in the order hereinbefore prescribed for the gazetted lists of candidates at general elections, and shall acquaint the said electors that they are at liberty to transmit to the said registrar their votes respectively, in a form thereby furnished, for any of the candidates contained in such list, and that the candidate having the greater number of the votes of such constituency will be declared to be elected a member to fill the vacant sent.

XXXI. The respective electors forming the constituency of a member whose seat is vacated as aforesaid, may, after receiving such notice as aforesaid, transmit to the registrar their respective voting papers, containing the name of one only of the candidates named in the list transmitted to them as last aforesaid, the signature of the voter to such voting paper being attested by the mayor, or some magistrate of the town or county in which the voter resides, and the registrar (who shall be the returning officer in such cases) shall certify to the Speaker of the House of Commons the number of votes

given for every candidate by the voters forming the said constituency, and shall return as duly elected, in the place of the member whose seat is vacated, the candidate who shall have a greater number of such votes than any other of the said candidates.

The two latter clauses may, perhaps, admit of amendment. In these occasional elections the object is to unite the suffrages of the largest number of the particular constituency in favour of the same candidate,—there being a wide field of choice. It is for this purpose desirable to promote a compromise of opinions, by affording alternatives. The process of elimination formerly considered,[1] is not now open to the objections which apply to that method at a general election, and the difference of value from the position on the voting paper,[2] may without inconvenience be taken into account. In order to concentrate the votes of as many of the limited electoral body as can be brought to agree upon one representative, every voter may be allowed to name as many of the candidates as he may think proper, and those who appear on the smallest number of voting papers may be successively struck out, until the successful candidate alone remains; or, adopting another method, the votes may be at once valued, according to their position,[3] as explained elsewhere.

[1] P. 187 (2). [2] Id. (3). See also Appendix C. [3] Appendix C.

CHAPTER X.

THE DESIGNATION OF MEMBERS AND CONSTITUENCIES.

A SYSTEM which anticipates the progress of the nation, and admits of the formation of new constituencies, as the occasion and desire shall arise, must also contemplate, as has been already observed, the existence of many more constituencies than there can be members,—and, therefore, that one member may represent several constituencies.[1] This is substantially the case at present in the contributory boroughs. The member for Ayr, for example, may be called with indifferent accuracy the member for Campbeltown or Irvine. So, in the proposed system, it would be unimportant, in point of nomenclature, whether a member who had been returned for several constituencies should, in the ordinary appellation by which he is addressed in the House, be styled as the member for one rather than the other, although it would be reasonable that he should be usually referred to as the representative of that constituency for which he had also been especially a candidate.

Throughout the frame of this scheme it has been an object to create and maintain a connection between the member and the constituents, which shall be due to no selfish or sordid cause, but be solely owing to the estimation by the one of the virtues of the other. Under the existing system of majorities, every elector may throw upon others the blame of a contemptible choice. "Thou canst not say I did it," may

[1] See pp. 50—54, 56.

be the answer to every remonstrance. But the case will be very different when every elector may personally acquire respect, or incur disgrace, by the selection which he makes. In addition to what is merely personal, another powerful feeling of an elevating character, which has already been spoken of,[1] will be called forth. A collective or corporate feeling of pride is brought into existence,—for, although men readily discover reasons for not ascribing to themselves any part of the ignominy that attaches to an act which is disgraceful to the body they belong to, yet they are always prompt to claim a share of the credit their community may have gained, and which they commonly appreciate at the utmost of its worth. Dispositions such as these are moral levers. In them we have presented to us a field, both for merit and praise, boundless as the imagination; the civic honours which the people may confer on their more worthy countrymen, by placing them in the front ranks of the Commons of the kingdom, have no limits but the public appreciation of high desert and of the value of such a reward. In the proposed system of election the return of the same member may be double or multiple. The majority in every constituency will confer upon their chosen candidate the title of representative for their particular body; but as the purely political object ceases when the quota is made up, the majority, in placing one member rather than another in the first place, will commonly have no motive but the laudable one of showing the nation that they delight to honour one of its worthiest sons. The prevailing sentiment will be that which we observe to govern the members of ancient institutions and learned and scientific bodies, in nominating as their chancellors, their rectors, or their presidents, the eminent persons of their time. There is no borough, or electoral community, which may not be titularly represented by the most distinguished men, without, in any degree, interfering with their

[1] P. 56.

further representation by the members to whom their votes have been specifically appropriated. The spontaneous testimony of public admiration thus offered will not,—because it is an unsolicited tribute to high qualities, adding only to the moral influence of him to whom it is given,—be therefore less honourable to the givers than to the receiver. In a time when every effort is devoted to the acquisition of material riches, nothing is without its worth that confers extrinsic dignity or power. We are too prosaic to clothe

> "The olive wreath, the ivied wand,
> The sword in myrtles drest,"

with the symbolic value given to them by a more imaginative people in an earlier age; but we have not yet lost the estimation of what is great, and no means should be neglected which our institutions can offer of giving prominence to true worth, and impressing upon it the seal of the general approbation. That "virtue is its own reward" is for the individual a sublime truth, but for society it would be a niggard maxim. We cannot afford to part even with the faint and reflected gleams of human glory. Divinely taught wherein true heroism consists, we may restore again our long-forgotten shrines of hero-worship, and find something better and nobler than an universal idolatry of money. When we have undone the fetters of our electoral bodies,—shaken off, so far as any human arrangements can do so, all that is mercenary and degrading, and given them health and elasticity,—the free spirit, no longer enslaved by the lower desires and appetites, will ever rise and soar towards that which shall be more and more excellent; and the law should encourage a disposition in every constituency to nominate as their representative him whom they regard as the highest living model of worth.

XXXII. A candidate shall be entitled to be, and shall be returned as a member for any constituency in which a majority of votes has been polled

for him, notwithstanding that under section XVIII. or section XXIV. all the votes actually appropriated to him shall have been polled in another constituency or other constituencies; and in such case the constituency for which he is by this law declared to be entitled to be returned, and the votes whereof are appropriated to other candidates, shall be entitled to return one other member for every candidate so elected, in addition to the number which is to be returned for it under section XXXIII. next hereinafter contained.

The effect of the law may be illustrated by supposing that James Watt had been a candidate for Birmingham, and that Glasgow, remembering the "frown severe" with which she had beheld his earlier exertions, desired to testify her sense of the debt the marvellous city of the Clyde owed to one who was, almost by inheritance, the tutelary genius of that river, by placing him in the front rank as her representative. James Watt might have been at the head of the poll, and returned for Glasgow as well as for Birmingham, whilst Glasgow would have, in addition, her complement of representatives under the general rule expressed in the succeeding law.

It is important in so great a national work as the election of a representative assembly, to secure the aid of all the better feelings and higher motives,—to bind the representative and the constituent by the ties of mutual respect and attachment, and thus render names subservient to things. With this view the designation of members is a subject of no slight moment. It is the sign, as well as the result of the intimate connection of the members with the various constituencies dispersed throughout the length and breadth of the land. The names by which the members are severally designated constitute the marks or imprint in the Parliament of the distinct vitality and force of every part of Britain. Still, all these distinct sources from which the members receive their appellation and derive their function and authority, are to be regarded, to use the words of Bacon, as lines and veins rather than as sections and separations. Or, to borrow an illustra-

tion from physiology, they may be likened to the nervous centres whence the human frame is supposed to receive its impulse and power of harmonious action. It is the people, and not the surface of the earth, or the constructions which man has heaped upon it, which must be represented. The principle of personal representation is the great political doctrine of modern times.[1]

Every project for the distribution of seats, and indeed every actual distribution, has professed to have regard to the number of voters in the constituency. All schemes, except that of the Duke of Richmond, have proposed a distribution more or less grossly disproportionate, or if not, of divisions more or less arbitrary. It is obvious that a just and natural distribution throughout the kingdom of the sources of political power requires, as its basis, that the same rights of suffrage should exist in every part of the kingdom. A consideration of the great question of the suffrage is reserved for a subsequent chapter. It is sufficient here to remark, that a right of suffrage, extensive and impartial, is, as Mr. Calhoun says, "the indispensable and primary principle,"[2] and that in conferring it, in the language of M. Guizot:—"Le gouvernement représentatif considère quel est l'acte auquel vont être appelés les individus; il examine quelle est la capacité nécessaire pour cet acte; il appelle ensuite les individus qui sont présumés posséder cette capacité, *tous* ceux-là, et ceux-là *seuls*. Il cherche ensuite la majorité parmi les capables. C'est ainsi, en fait, qu'on a presque toujours procédé partout, même quand on a cru agir en vertu de la souveraineté du peuple. Jamais on ne lui a été vraiment fidèle; on a toujours exigé, pour les actes politiques, certaines conditions, c'est-à-dire, les signes d'une certaine capacité. On s'est trompé en plus ou en moins, et l'erreur est grave, soit à exclure des capables, soit à appeler des incapables. Mais on a obéi au principe du droit mesuré selon la capacité, même quand on professait le principe du

[1] *Buckle's History of Civilisation.* [2] *Disquisition*, &c., p. 13.

droit dérivé de la simple qualité d'homme."[1] It may be assumed that in any law regulating the suffrage, to the extent in which it is given, it will be founded on the supposition of capacity; and to the extent to which it is restricted, it will be restricted on the supposition of incapacity. Any statesman who shall attempt to carry an electoral law on a narrower basis than this—even if any party combinations should give him a temporary success,—will most assuredly prepare the way for future political difficulties. If a standard of capacity be once adopted—whatever be its elements—the next question for the consideration of statesmen in this country is,—whether any ground exists for disturbing this general standard of capacity by exceptional privileges or restrictions dependent on the place in which the individual elector resides? It is only in a social condition which is become highly artificial that such a question could be seriously proposed. No one will gravely argue that the residents of one district of the United Kingdom, when subjected to the same tests, are so inferior in capacity or character to those who reside in another district, that a different and exceptional standard of electoral capacity should be adopted. No reasons for such a difference, founded on intellect, opinion, disposition, or any other conceivable quality, are applicable to the people of these islands within any specific geographical or other line. The same general standard applies to the Englishman in Cornwall and in Cornhill. None will probably deny that in scientific acumen and courageous enterprise the county may fearlessly sustain a comparison with the city.

Those who would refuse to the inhabitants of the country districts their equal title to electoral power, will, when subjected to close scrutiny, be found to be a class of small weight or influence. The remarks of a leader of the reformers on this subject are significant. He observed:—"I know no good reason why the franchise in counties should

[1] *Gouv. Rep.*, vol. i., p. 110.

not be as extensive as in boroughs; but there appears to have been an understanding of late years, that the next step with regard to the county suffrage shall be short of that, and I shall not quarrel with any measure on that ground."[1] It is true, that the inhabitants of the towns who have agitated the subject of parliamentary reform, not only have not thought it desirable to advocate the interests of those who reside in the counties, but have given little support to the principle of residential equality. The people residing beyond the limits of towns and boroughs have comparatively small means of combining to forward their own claims. "The very nature of a country life, the very nature of landed property, in all the occupations and all the pleasures they afford, render combination and arrangement (the sole way of procuring and exerting influence) in a manner impossible amongst country people. Combine them by all the art you can, and all the industry, they are always dissolving into individuality. Anything in the nature of incorporation is almost impracticable amongst them. Hope, fear, alarm, jealousy, the ephemerous tale that does its business and dies in a day,—all these things, which are the reins and spurs by which leaders check or urge the minds of followers, are not easily employed, or hardly at all, amongst scattered people. They assemble, they arm, they act with the utmost difficulty and at the greatest charge. Their efforts, if ever they can be commenced, cannot be sustained. They cannot proceed systematically."[2] It might have been expected, by a foreigner unacquainted with the working of our representative institutions, that the landed proprietors, who are in a condition to make themselves heard in Parliament, would have been the efficient protectors of their neighbours, the inhabitants of the country,—that they would have indignantly repelled any insinuation of mental or physical inferi-

[1] Mr. Bright. *Speech at Birmingham*, Oct. 27, 1858.
[2] *Reflections*, &c., p. 286.

ority, and demanded for them, at least, an equality of political rights. He would be surprised to learn, that, so far from finding advocates in their territorial and natural chieftains, it is from some of them that the attempt to confer upon the inhabitants of counties a franchise, nominally of an equal, but really of a greater, amount than that existing in the towns, has met with the greatest opposition. Mr. Bright gave utterance to what a correct sense of truth prompted, when he characterised the indifference to the rights of the county inhabitants, as an "understanding," and with an equal sense of justice he informs them beforehand, that it is not his province to become their champion. An "understanding" every lawyer knows is a covert expression, generally introduced when one person wishes to impose upon another terms which have not been agreed upon between them. One party is sufficient for an understanding, but two are required to an agreement. The understanding has not yet been ratified by the persons whose political equality it menaces.

It will be said, that the distinction between the electoral standard in the boroughs and in the counties is founded not on any inferiority in capacity or in any consideration of danger in the opinions or dispositions of the people in the country districts, but on the constitutional necessity of guarding in this manner the interests of the proprietors of the land. The argument, of course, assumes—first, that there exists in the country an antagonism between the proprietors and those who are occupiers, and not proprietors, of houses or lands; and secondly, that the constitution affords no adequate protection to the proprietary class, except by the exclusion as far as possible of county voters who are not proprietors. In the long discussions on representation which took place before the Reform Bill, the antagonistic bodies were supposed to be the landed and the mercantile classes;[1] and it is a doctrine of

[1] "There is one great and eternal distinction arising from the nature of things, which no wisdom can annihilate and no artifice disguise; and that

a very recent date, which places the landed proprietors and rural population in supposed hostility to each other. In truth, the antagonism is perfectly imaginary. By giving health and activity to all the fibres which grow out of interests in land, and which stretch their roots deeply and widely, and take more or less hold on every class in society, the proprietors of land will always find that their true interests and just rights are too firm to be shaken. It may, indeed, be possible for the great proprietors of land to insist upon upholding a system which will sever all these multitudinous ties, and leave them isolated and exposed.

It may well be hoped that when our representative institutions shall come under revision, there will be found in their places in both houses of Parliament some at least of the hereditary leaders of the yeomanry of the kingdom, demanding for them, as county inhabitants, individually and collectively, the same measure of political justice as shall be given to the inhabitants of the towns.

The fidelity and adequacy of the county representation is one of the chief points on which every one who may take a part in the business of parliamentary reform, with a single-minded view to the establishment of a system universally just and true, ought resolutely to insist. The title of the county inhabitants to an equal representation to those of the towns, according to their numbers, measured by the same rule, is alike indefeasible and undeniable. Cheshire, with its 16,000 electors, increased by the extension of the suffrage perhaps to 20,000, would unquestionably be entitled to return ten members, if every constituency of 2000, on the average, returned one member. Yorkshire, with its 56,000 electors, increased to 70,000 by the extension of the franchise, would, on the same rule, be entitled to thirty-five members; and so

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is the distinction between the landed and mercantile interests!"—*Oldfield's Representative History*, vol. i., p. 163. London, 1816.

with the rest of the counties. What is the objection to this demand? There should be no shrinking on any side from principles of indisputable justice. It is the duty—and duty is always true policy—of the ministry who may conduct the affairs of the State,—of the peers, who are, by tradition and constitution, hereditary guardians of justice and liberty,—of every member of the lower House who can rise above mere party attachment, to insist upon this measure of justice for those whose position do not enable them to combine for the purpose of demanding it. If, in the discussions to arise, they shall be led by rectitude of principle to the conception of political wisdom, they will insist upon perfect and equal rights for the dwellers in the counties, regulated by the same measure, to the uttermost fraction,—abating not one jot or tittle from what is conceded to those who live in towns,—and demanding nothing more. If their demands be tainted with a desire to secure a monopoly, or an unjust partition of influence or power, they deserve to fail; but, in requiring equality, their position is impregnable. The English people, from the impromptu-crowd which gathers in the street, to the most august court in the land, are lovers of fairness and justice, and they will scorn the sophistry which shall attempt distinctions between their countrymen, founded upon the difference of the spot on which they may happen to live.

An equal measure of justice must be extended to the towns. On this point, the metropolis seems to appal even some of the most extreme reformers. On calculating its vast population, and the corresponding share which it may claim in the representative assembly, the agitation for reform, like fear, "recoils at the sound itself has made." An extensive metropolitan representation, framed as it has hitherto been, may well be dreaded; but, constructed on a system which is freed from the ties of parish or boundary, it might be the strength and anchor of the constitution, if such a character or office could be attributed to any part of the kingdom rather

than to another. A true representative reflex of all the better elements which are found in the metropolis, should present a body of men as illustrious as any in the world.

Of what does the metropolis consist? It contains the abode of the sovereign, and of the regal house and household, and of all who compose the court and council of the Queen. It contains the mansions of an ancient and powerful nobility, and their numerous connexions and dependents. In it are all the chief military and civil departments of the army, the navy, the ordnance, and the control of their vast equipments; the public treasury, the mint, and the multitude of offices which are concerned with the receipt of the revenues of the kingdom from foreign and inland trade, and all the subjects of taxation, and for the appropriation and liquidation of the principal and interest of a public debt equal in amount to the value of the fee-simple of the dominions of some not insignificant monarchs,—and with the collection and audit of the public accounts of the empire. In the metropolis are the chief stewardships of the great estates of the crown and its palatinates. In it reside all the functionaries connected with the imperial Parliament,—the secretaries, councils, and officers engaged in communications between the government and its dependencies, — the Canadas, Australasia, Africa, and the Indies,—and with foreign nations. In it are the immense establishments of the Post-office, the great triumph of civilisation,—sowing, daily and hourly, with its myriad hands, the seeds of public and private intelligence gathered from every part of the habitable globe. In the metropolis are the seats of the Courts of Equity and Law, and to it are brought all appeals, in the last resort, from every territory and colony. Here reside the bar, and the other professors of legal science concerned in the supreme administration of justice, and in the settlement and transfer of most of the great properties in the kingdom. In this detail is comprehended but a few of the multitude of conditions and occupations engaged on the affairs

of the empire. There is the Bank of England, and the other companies and firms of bankers, whose money transactions represent no small portion of the dealings and commerce of every quarter of the earth. Here are the managers, directors, and staff of the principal associations which, by ships and railways, conduct the intercourse of the people of all nations. There are classes almost beyond the possibility of recapitulation,—merchants, shipowners, brokers, manufacturers of an infinite variety of fabrics,—traders, capitalists, composed of companies and individuals, having ramifications of business with every port, inland town, market, and village. Here are associations, academies, and museums, for the promotion of learning, and science, in all their developments. Ireland sends its brilliant imagination and its romantic bravery; Scotland, its keen intellect and its untiring perseverance. The metropolis attracts to itself much that the kingdom produces of high talent or superior energy; it gathers together the diversities of gifts with which nature endows her most favoured sons. Here the learning of Johnson, the erudition and wisdom of Burke, the genius of Reynolds, of Lawrence, of Flaxman, and Chantrey, found their home. Here the eloquence of Erskine, of Copley, and of Brougham, had their appropriate theatre. It is here that Wren achieved his triumphs; and here it may be given to Scott to realise his conception of what Gothic architecture is capable. Davy brings hither from Cornwall his researches in chemistry; Stephenson, from Northumberland, his applications of mechanics; Herschel, from Somersetshire, his astronomical observations. Here, Abernethy, and Cooper, and Brodie, held their daily levees. From the rapidity of communication and of travel, the metropolis has now robbed the old provincial capitals of much of their lustre. It is the dwelling of the gentry of the kingdom. Hither thousands, whose skill and industry have been crowned with success, retire, and bring their acquired wealth, and find repose in contemplating that

progress in the labour of which they have ceased actively to participate, and in the society of kindred minds. From the metropolis flows that comprehensive literature, the seemingly ever-increasing and inexhaustible stores of which are daily poured forth in article and volume, to feed and guide the realm of thought.

Foreigners should behold in the representation of this mighty community a condensed picture of the greatness of our country, and be compelled to recognise in it a triumphant display of the dignity and virtue of its institutions. Instead of this, the product which our political chemistry extracts from this abundant wealth of material is so immeasurably small that it may well create the deepest alarm in the mind of any statesman, looking to the future, and beholding the shoals into which the representative institutions, even in a highly-intelligent age, may be permitted to drift. With an accidental exception or two, we are unable to refer to the metropolitan constituencies as having given to the senate any members to whom the nation can point, not to say with pride, —but with even the shadow of satisfaction, as illustrating a single ennobling feature of the national character. Under a system which forces every man either to submit to political extinction or to make one of a majority, in which he utterly sacrifices all that in which he differs from the rest in judgment or opinion, it cannot be otherwise. An electoral community formed of thousands of persons, including every diversity of thought, intelligence, education, and feeling, is driven together, and told,—what is, in effect, a cruel irony,—to elect a *representative*. If it be only that the person chosen is to support this or that minister,—or this or that dogma which the majority in its caprice or its ignorance has set up, the representation may be enough,—but if it be to exercise a judgment on all the subjects which at this day become matters of legislation, then it may be confidently said, that no fable, legend, or allegory, has personified a creature capable

of adequately representing such a heterogeneous combination of men. The result is inevitable. The crowd of electors is persuaded by the more cunning to apply some test, which affords no more proof of the fitness of the candidate for a legislator than if they had taken him by weight or measure, —something which the most ignorant man may answer. The small degree in which he differs from the lowest and commonest order of mind amongst them may be his recommendation. The chance of any candidate of a higher order of intelligence is so small, that no man will waste his fortune upon it; and the very considerable number of components of the electoral body, who, with delight, would have chosen a superior man, have no opportunity of judging by comparison, or of making a better selection.

It can hardly admit of doubt that, if our statesmen would offer to the metropolitan electors the opportunity of adopting, in the metropolitan constituencies alone, the system proposed in this treatise, it would be regarded as an incalculable boon by a very large number of the intelligent inhabitants; probably by almost all, excepting those who are able by the present arrangements to acquire some profit, or some undue advantage over their fellow-voters. Let us suppose that all the eighteen members are to be elected at one poll, and that the candidates are not liable to be charged with any election expenses beyond a deposit of £50 apiece. There would be probably not less than forty or fifty candidates, including men of eminence in science and literature, in political life, in the army or navy, and at the head of various departments of manufacture and trade. Every elector would have this vastly increased extent of choice, and selection, and in the method of contingent voting may place on his voting paper the names of all, or any, that he may approve of, rejecting as many as he pleases. The whole number of votes being divided by eighteen will give the quota, and the excess being struck off from the more popular candidates would be carried to the next

name on the voting paper. On such an election, it cannot be supposed that there is any thoughtful man in this great city whose interest and sympathies would not be awakened and called into exercise.[1]

If every elector in the British metropolis were emancipated from the trammels by which his choice is restricted, and informed of the extent of the field before him,—how many men amongst his contemporaries, whose names he has been accustomed to admire or venerate, are ready to offer themselves as representatives,—there is not the smallest reason to doubt that the intelligence of the inhabitants will gather together members who will bear a comparison with those of any other constituency in the kingdom. In an equal system of suffrage in counties and boroughs—and of individual independence—it is probable that the county electors between the Humber, the Mersey, and the Tees,—or the county electors south of the Severn, would be entitled to nearly the same number of members as the electors of the metropolis; and a competition between the metropolis, the north, and the south, to be represented in the state by the most distinguished of contemporaneous statesmen, would impart a new, and incalculably higher tone of life to our national politics.

A few thousand electors might still make choice of men who

[1] In evidence given before the Select Committee of the House of Lords on the Franchise (Report, 26 June, 1860), I pointed out this method, as applied to the metropolitan constituencies. It would afford an excellent opportunity of readily introducing personal representation in the most perfect form which, up to this time, has been suggested. For example, suppose 50,000 votes to be polled among 50 candidates, and that the votes for the 18 highest on the poll numbered together 36,000,—this would make a quota of 2000. All the candidates having more than 2000, have then the excess taken away by giving the votes to the next candidate on each paper; the 18 highest are then again added, and divided by the 18, producing a smaller quota, and so on, as in the process described in Appendix E.

The residue of the votes which have not influenced the return would be appropriated, according to Clause XXVI., so far as they contained the name of any elected candidate.—(Note to 3rd ed.)

could do them no honour, but the system thus affords a kind of safety-valve, by which deficiency of judgment and intellect is drawn off,—for every quota which makes a mean selection is thus prevented from lowering the general tone and character of the representation of the constituencies at large, which such a number of voters is now able to do; and the objects of their choice will find their proper level, and exist in a state of harmless insignificance...

Another condition of the population of London, and one which may be expected to operate to an immense extent in a system of individual independence, must also be taken into account. At the census of 1851, of 1,395,000 persons above twenty years of age, then in London, 588,000 were born in other parts of England, including every English county, 14,000 in Wales, 26,000 in Scotland, and 89,000 in Ireland. It is a habit of mankind to cling tenaciously to early associations. A native of Scotland, or Ireland, or of a distant county, whom a profession or a trade has drawn to London, retains still his attachment to his birthplace. His sympathies are with it as his mind dwells on the sunny memories of youth or early manhood. The English metropolis has but few charms to awaken in the native of Scotland that attachment which he may never cease to feel for the glorious capital of his own country—

"Edina, Scotia's darling seat."

It is not in London alone that the attachment to country and early associations would operate. It would be the same throughout the kingdom, especially in all the great centres of industry. Lancashire contained, at the same census, 378,000 persons not born within that county. The extent to which the means of travelling have been facilitated within the last few years will operate, in a degree which has never before been felt, to preserve the connection between individuals and the places of their more cherished associations,

and from which, notwithstanding their business may employ them at a distance, they can scarcely be said now to be permanently removed. Under a system of individual independence, full scope would be given to every local attachment,—a regard which, if it exists at all, must be of free and spontaneous growth. Scotland would not complain of neglected interests, for every Scotchman, wherever his lot in life had cast him, would, in the choice of his representative, turn with filial love to the land of his sires. Ireland would complain of no cold disregard, for it would find friends in every spot in which the warm-hearted and unchanging faith of her sons, and the exquisite loveliness of her daughters, had won affection.

It is obvious that causes arising out of country, of property, and of every species of actual or possible association, would all operate materially on the votes which would be given in the metropolis and in other populous cities. To a large number of persons, the success of the local candidate would be a matter of less importance than that of some candidates for distant places, in which they may feel a greater interest. The desire and temptation to achieve a party triumph would be encountered by feelings and motives more wholesome and genuine. Instead of local interests being neglected, they will receive, by the accession of voluntary strength from without, greatly increased impulse and power; the impediments which merely local jealousies create being at the same time softened or removed.

It will be seen that the system of individual independence is consistent with the most perfect devotion to local objects, whilst, on the other hand, a geographical or territorial system is perfectly inconsistent with individual independence. The geographical system constrains every man's will, and destroys all personal independence. On the other hand, the power of voting for whom he thinks proper, permits every man to make the place in which he lives, or in which his

property is situated, the first object of consideration. Local obligations can go no further than this full liberty extends, —unless it be really meant that the duty of protection is attached, not to men but to inorganic nature, as to the soil or the houses; or to unsentient life, the woods and forests, and other productions of the vegetable kingdom. It is only on the supposition that these existences are to control the human will, that there can be any necessity for adhering to an electoral system forcibly bound by territorial limits.

A system of individual independence is not only consistent with every territorial view which the elector may entertain, but the method of election which is here proposed does not permit an elector of one constituency to interfere with the electors of another. The distinct and independent action of every constituency is perfectly preserved. No elector for Marylebone can interfere with the electors for Warwickshire, nor the elector of Warwickshire with those of Marylebone. An elector of Marylebone may vote for a candidate who may be a candidate for the county of Warwick, and the votes of electors of Marylebone may furnish a quota who may return him,—but not for Warwickshire. Nothing but a majority in that county could return him as a member for it, as the fact of a return of the candidate by votes from Marylebone, in the case supposed, when he had no sufficient majority in Warwickshire, would be the same thing in effect as if he had been at the first a candidate for Marylebone. It would be that borough he would be returned to represent, and not Warwickshire.

The adoption of a rule giving to every unanimous quota of votes the power of electing a representative, would operate in fact as a perfect and self-adjusting system of electoral division, at all times corresponding with the fluctuations of population and wealth. One of the suggested provisions[1] is directed to the object of admitting the separation of the larger

[1] Clause V., p. 50.

into smaller constituencies; but after this has been done so far as this is likely to be sought, there will no doubt still remain counties, cities, and towns, the inhabitants of which will not desire or consent to any division. Liverpool, for example, would probably insist upon remaining—and there is no reason why it should not remain—an entire and undivided constituency. It now contains 17,333 voters, and is increasing in magnitude. The electors of Liverpool, even if the quota were largely increased, might still be sufficient in number to return seven or eight members. It is impossible to foresee the extent of the changes, or the development which any of the great centres of population may undergo. Under a system in which political weight is perpetually regulated by the magnitude and importance of the community, there is no reason for preserving an arbitrary limit prescribed under an obsolete condition of things, and the nominal representation may be determined by, and correspond with, the real position of the electors.

XXXIII. Every constituency which is, or shall hereafter be entitled to return a member or members to serve in Parliament, shall be summoned by writ to return so many members as shall be equal to the quotient of the number of the electors of the same constituency, who shall vote at the election thereby directed to be made, divided by the number of the quota for the time being declared and certified according to sections I. and III., hereinbefore contained, and one member for every fractional part of such dividend; and in cases where the number of such electors shall be less than such quota, one member, and no more,—except in cases falling within section XXXII., hereinbefore contained; and it shall not be necessary to specify in the writ otherwise than as aforesaid, the number of members to be returned by any constituency.

The operation of this law will be explained by supposing that in North Cheshire, after an extended franchise, there should be 11,000 voters, and that the quota be 2,000. The number of electors, divided by the quota, gives a quotient of five, and a fractional number, which will make it the duty of the sheriff to return five, and one for the fractional number,

making together six members for North Cheshire. The arrangement of the number of members to be returned for every constituency, under a system regulated by its magnitude, whilst it gives to every locality an effectual and substantial representation, becomes, so far as relates to form, no more than a question of nomenclature.

The contest in which the nation will, so long as the present system continues, be periodically and more or less fiercely engaged, with reference to the relative importance and right of counties, cities, and towns, and other constituencies, to return severally one or more members, and to the propriety of disfranchising boroughs, the only fault of whose inhabitants is, that nature has not placed them on a seaboard, or on some great stream of communication, or enriched them with mineral treasure,—is worthy of the times when laws were made to enable one city or class to exercise privileges hostile to another, and when the statute of Kilkenny was in force. It will not continue for an hour after our leading statesmen and public men shall be able to perceive that there is no more wisdom in incumbering our political institutions with the difficulties, and deteriorating them by the rude and barbarous practices of bygone ages, than there would be in rejecting the aid of modern science in the performance of any other operation.

CHAPTER XI.

THE HOUSE OF COMMONS AND THE IMPERIAL GOVERNMENT.

THE American statesman, whose "Disquisition on Government" has been referred to, observes that all history and experience testify that the same predominance of the individual over the social feelings which makes government indispensable to preserve society, produces also on those who administer the government a strong tendency to abuse its powers. "Liberty," he says, "is little more than a name under all governments of the absolute form, including that of the numerical majority, and can have only a secure and durable existence under those of the concurrent or constitutional form."[1] It is only a constitution, by whatever name it may be called, which can prevent an abuse of power. "Having its origin in the same principle of our nature, *constitution* stands to *government* as *government* stands to *society*, and as the end for which society is ordained would be defeated without government, so that for which government is ordained would, in a great measure, be defeated without constitution. But they differ in this striking particular. There is no difficulty in forming government. It is not even a matter of choice whether there shall be one or not.

[1] *Calhoun, Disquisition*, &c., p. 60. See *Niebuhr, Hist. Rome, (Hare and Thirlwall's Trans.)*, vol. ii., p. 298, Camb., 1832, where there are several illustrations from ancient and modern history; *Buckle, Hist. Civilization*, vol. i., p. 71.

Like breathing, it is not permitted to depend on our volition. Necessity will force it on all communities in some one form or another. Very different is the case as to constitution. Instead of a matter of necessity, it is one of the most difficult tasks imposed on man to form a constitution worthy of the name; while, to form a perfect one,—one that would completely counteract the tendency of government to oppression and abuse, and hold it strictly to the great ends for which it is ordained,—has thus far exceeded human wisdom, and possibly ever will."[1] "The question involves difficulties, which, from the earliest ages, wise and good men have attempted to overcome. For this purpose many devices have been resorted to, suited to the various stages of intelligence and civilisation, through which our race has passed. The only materials which the early ages afforded for the construction of constitutions, were applied with consummate wisdom and skill. To their successful application may be fairly traced the subsequent advance of our race in civilisation and intelligence, of which we now enjoy the benefits. For, without a constitution,—something to counteract the strong tendency of government to disorder and abuse, and to give stability to political institutions,—there can be little progress or permanent improvement."

The writer who, in our own times, has combined the characters of the laborious historian, the practical statesman, and the calm philosopher, divides power into that which exists *de facto*, and that which is *de jure*: not the *jus* of the lawyers, founded on the accidents of history,—but that which rests on immutable principles of truth and justice. He cites the words of Pascal, "*La multitude qui ne se réduit pas à l'unité est confusion. L'unité qui n'est pas multitude est tyrannie.*"[2] This, says M. Guizot, "est l'expression la plus

[1] *Disquisition*, &c., p. 8.

[2] The causes of the practical failures of M. Guizot are perhaps nowhere more candidly weighed than by M. Laufrey (*Etudes et Portraits Politiques*,

belle et la définition la plus précise du gouvernement représentatif. La multitude, c'est la société : l'unité, c'est la vérité—c'est l'ensemble des lois de justice et de raison qui doivent gouverner la société. Si la société reste à l'état de multitude, si les volontés isolées ne se réunissent pas sous l'empire de règles communes, si elles ne reconnaissent pas également la justice et la raison, si elles ne se réduisent pas elles-mêmes à l'unité, il n'y a pas société, il y a confusion. L'unité qui n'est pas sortie du sein de la multitude, qui lui a été violemment imposée par un ou plusieurs, n'importe le nombre, en vertu d'un droit à eux personnel, est une unité fausse et arbitraire ; c'est la tyrannie. Le but du gouvernement représentatif est d'empêcher à la fois la tyrannie et la confusion, de ramener la multitude à l'unité en la provoquant à la reconnaître et à l'accepter elle-même."[1]

Mr. Burke adverts to the error of the theorists who sophistically confound the right of the people with their *power*. "The body of the community, whenever it can come to act, can meet with no effectual resistance ; but, till power and right are the same, the whole body of them has no right inconsistent with virtue, and the first of all virtues, prudence. Men have no right to what is not reasonable, and to what is not for their benefit."[2] "One of the first motives to civil society, and which becomes one of its fundamental rules, is, *that no man should be judge in his own cause*. By this, each person has at once divested himself of the first fundamental right of uncovenanted man, that is, to judge for himself, and to assert his own cause. He abdicates all right to be his own governor. He inclusively, in a great measure, aban-

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Paris, 1864). It was "l'esprit de conservation à outrance, qui exigeait l'inertie en système."—"Nous sommes dans la charte, la charte est notre forteresse."—"C'est bien l'image exacte de ce système fermé, sans expansion, sans avenir, et sans issue. On ne songeait pas que tout forteresse appelle un siége." Pp. 352, 353. *Du Régime Parlementaire.*

[1] *Guizot, Gouv. Rep.*, vol. i., p. 94. [2] *Reflections*, &c., p. 92.

dons the right of self-defence, the first law of nature. Man cannot enjoy the rights of an uncivil and of a civil state together. That he may obtain justice, he gives up his right of determining what it is in points the most essential to him. That he may secure some liberty, he makes a surrender in trust of the whole of it."[1]

The question of the ultimate deposit of political power is presented by the European statesman in its philosophical, and by the Transatlantic statesman in its practical shape,—"Comment garantir à la société que le pouvoir absolu en fait, auquel toutes les relations sociales viennent nécessairement aboutir, ne sera que l'image, l'expression, l'organe du pouvoir absolu en droit, seul légitime, et qui n'est déposé nulle part sur la terre? C'est là le problème du gouvernement."[2] How, asks Mr. Calhoun, is the tendency of government to oppression and abuse "to be counteracted,—how can those who are invested with the powers of government be prevented from employing them as the means of aggrandising themselves, instead of using them to protect and preserve society?"[3]

The answer to these questions, as they are the conclusions from facts, first assumes a negative form, by showing that as no selection of one, or of a class, be it few or many, constitutes any security from oppression, so the vesting of power in the greater number—in the numerical majority—is at least equally a despotism in principle; and a despotism which is more hopeless from the numbers of which it is composed, and the assistance and countenance of a multitude which creates its own standard of morals, and is blind to what is base, when it serves the popular object.[4] When the contest is reduced to one of numbers—to a question of numerical majority—the conflict between the two parties "tends neces-

[1] *Reflections*, &c., p. 88. [2] *Gouv. Rep.*, vol. i., p. 120.
[3] *Calhoun, Disquisition*, &c., p. 8. See *Mill, Considerations on Rep. Gov.*, chap. vi.
[4] *Niebuhr, History of Rome* (*Hare and Thirlwall*, Tr.), vol. ii., p. 407.

sarily to settle down into a struggle for the honours and emoluments of the government, and each, in order to obtain an object so ardently desired, will in the process of the struggle resort to whatever measure may seem best calculated to effect this purpose. The adoption, by the one, of any measure, however objectionable, which might give it an advantage, would compel the other to follow its example. In such case, it would be indispensable to success to avoid division and keep united; and hence, from a necessity inherent in the nature of such governments, each party must be alternately forced, in order to insure victory, to resort to measures to concentrate the control over its movements in fewer and fewer hands, as the struggle became more and more violent. This, in process of time, must lead to party organization, and party caucuses and discipline, and these, to the conversion of the honours and emoluments of the government into means of rewarding partisan services, in order to secure the fidelity and increase the zeal of the members of the party. The effect of the whole combined, even in the earlier stages of the process, when they exert the least pernicious influence, would be to place the control of the two parties in the hands of their respective majorities; and the government itself virtually under the control of the majority of the dominant party for the time, instead of the majority of the whole community, where the theory of this form of government vests it. Thus, in the very first stage of the process, the government becomes the government of a minority, instead of a majority,—a minority, usually, and, under the most favourable circumstances, of not much more than one-fourth of the whole community.[1]

[1] "It has come to this, that one man, Caleb Claptrap, for example, who has a certain influence with three other men, selects the man who, for the space of four years, if elected, is to divide 120 millions of dollars amongst his friends and their friends."—*American Whig Review*, vol. xvi., p. 175. New York, 1852.

"But the process, as regards the concentration of power, would not stop at this stage. The government would gradually pass from the hands of the majority of the party into those of its leaders, as the struggle became more intense, and the honours and emoluments of the government the all-absorbing objects. At this stage, principles and policy would lose all influence in the elections; and cunning, falsehood, deception, slander, fraud, and gross appeals to the appetites of the lowest and most worthless portions of the community, would take the place of sound reason and wise debate. After these have thoroughly debased and corrupted the community, and all the arts and devices of party have been exhausted, the government would vibrate between the two factions (for such will parties have become) at each successive election. Neither would be able to retain power beyond some fixed term; for those seeking office and patronage would become too numerous to be rewarded by the offices and patronage at the disposal of the government; and these being the sole objects of pursuit, the disappointed would, at the next succeeding election, throw their weight into the opposite scale, in the hope of better success at the next turn of the wheel. These vibrations would continue until confusion, corruption, disorder, and anarchy, would lead to an appeal to force,—to be followed by a revolution in the form of the government. Such must be the end of the government of the numerical majority; and such, in brief, the process through which it must pass, in the regular course of events, before it can reach it.

"This transition would be more or less rapid, according to circumstances. The more numerous the population, the more extensive the country,—the more diversified the climate, productions, pursuits, and character of the people, the more wealthy, refined, and artificial their condition; and the greater the amount of revenues and disbursements, the more unsuited

would the community be to such a government, and the more rapid would be the passage."[1]

It is not by instituting a higher power to control the government, and those who administer it, that the tendency to abuse can be counteracted. "This would be but to change the seat of authority, and to make this higher power, in reality, the government, with the same tendency to pervert its powers into instruments of aggrandizement. Nor can it be done by limiting the powers of government, so as to make it too feeble to be made an instrument of abuse; for passing by the difficulty of so limiting its powers, without creating a power higher than the government itself to enforce the observance of the limitations, it is a sufficient objection that it would, if practicable, defeat the end for which government is ordained, by making it too feeble to protect and preserve society."[2]

Absolute and rightful power,—the power *de jure*,—is divinely given, and attributable to none,—"la souveraineté de droit," says M. Guizot, "n'appartient à personne, parce que la connaissance pleine et continue, l'application fixe et imperturbable de la justice et de la raison n'appartiennent pas à notre nature imparfaite."[3]

The lessons of experience having shown that absolute power can be safely reposed in no single authority, the question recurs, how the government must be constructed to counteract its tendency to abuse? "There is but one certain mode in which this result can be secured, and that is by the adoption of some restriction or limitation, which has so effectually prevented any one interest, or combination of interests, from obtaining the exclusive control of the government, as to render hopeless all attempts directed to that end. There is, again, but one mode in which this can be effected, and that is, by taking the sense of each interest or portion of the

[1] *Calhoun, Disquisition*, &c., p. 42. [2] Id., p. 9.
[3] *Guizot, Gouv. Rep.*, vol. i., p. 93.

community, which may be unequally and injuriously affected by the action of the government, separately, through its own majority, or in some other way, by which its voice may be fairly expressed; and to require the consent of each interest, either to put or to keep the government in action. This, too, can be accomplished only in one way, and that is, by such an organism of the government, and, if necessary for the purpose, of the community also, as will, by dividing and distributing the power of government, give to each division or interest, through its appropriate organ, either a concurrent voice in making and executing the laws, or a veto in their execution. It is only by such an organism that the assent of each can be made necessary to put the government in motion; or the power made effectual to arrest its action when put in motion; and it is only by the one or the other that the different interests, orders, classes, or portions, into which the community may be divided, can be protected, and all conflict and struggle between them prevented, by rendering it impossible to put or to keep it in action, without the concurrent consent of all."[1]

It is upon an application of these truths that the constitution of this kingdom rests,—a constitution we may yet be permitted to describe, as "in theory the most beautiful of any—in practice the most approved,"—and, may it still be our trust,—"in duration the most permanent."[2] It does not, indeed, owe its foundation to any original and scientific conception of the necessity of such a balance and distribution of power. "Les gouvernements ne se font pas plus *à priori* et en vertu des préceptes que les grands poëmes." The labours, — now conflicting and now combined, — of divers ranks, classes, and interests, have erected the British Parliament, and composed it of three constituent parts—"the King, the Lords spiritual and temporal, and the Commons;

[1] *Calhoun, Disquisition*, &c., p. 25. [2] 1 *Black. Com.*, p. 217.

parts, of which each is so necessary, that the consent of all three is required to make any new law that shall bind the subject."[1]

It is by the action of these co-ordinate authorities that unity, the combination of the power and the right, is sought. Nothing human is infallible; but, from their joint and harmonious concurrence in any public act, the people have the greatest security which the institutions of man can afford, that the measure will be conformable to the laws of truth and justice. If they differ, the difference involves the necessity of an appeal to reason, guided by the individual conscience. The sovereignty of right resides in no man or collection of men, but dwells, says M. Guizot, "Dans sa vie intérieure, dans ses rapports avec lui-même, si je puis ainsi parler, comme dans sa vie extérieure, dans ses rapports avec ses semblables, l'homme qui se sent libre et capable d'action, entrevoit toujours une loi naturelle de son action. Il reconnaît quelque chose qui n'est pas sa volonté, et qui doit régler sa volonté. Il se sent raisonnablement ou moralement obligé à quelque chose; il voit ou il sent qu'il y a quelque chose qu'il doit faire ou ne pas faire. Ce quelque chose, c'est la loi supérieure à l'homme et faite pour lui, la loi divine. La vraie loi de l'homme ne vient pas de l'homme; il la reçoit, il ne la fait pas. Alors même qu'il s'y soumet, elle n'est pas sienne, elle est extérieure et supérieure à lui.

"L'homme ne se soumet pas toujours; en sa qualité de force libre et de nature imparfaite, il n'obéit pas toujours à sa loi. Il porte en lui d'autres mobiles d'action que cette loi suprême, et quoiqu' il sente le vice de ces mobiles, souvent il y cède. Mais, obéie ou non, la loi suprême de l'homme est toujours là; il n'y peut songer sans reconnaître qu'elle est placée au dessus de lui.

"Voilà donc l'individu toujours en présence d'une règle, d'une règle qu'il n'a pas faite, et qui l'oblige, et qui ne l'aban-

[1] 1 *Black. Com.*, p. 160.

donne jamais. S'il entre ou se trouve en société avec ses semblables, quelle autre règle aura-t-il que celle là? La société humaine serait-elle une abdication de la nature humaine? non: l'homme, dans la société, doit rester et reste effectivement ce qu'il est; et comme la société n'est qu'une collection d'individus, la loi suprême de la société doit être celle qui a droit de régir les individus eux-mêmes.

"Voilà donc la vraie loi du gouvernement trouvée. C'est la même loi qui oblige les individus. Et comme pour l'individu, la vraie loi est souvent obscure, et que l'individu même quand il la connaît bien, ne la sait pas toujours, de même pour le gouvernement, quel qu'il soit, la vraie loi, qui a toujours à passer par l'esprit de l'homme, toujours borné et passionné, n'est ni toujours connue ni toujours obéie. Il est donc impossible d'attribuer à un homme ou à plusieurs, la souveraineté de droit, car ce serait supposer qu'ils savent et veulent dans tous les cas, ce que veulent la justice et la raison. Supposition inadmissible, à raison de l'imperfection radicale de notre nature."[1]

The possibility that the union of constitutional power with the law of reason and justice may not be attained, after the discussion to which differences between the co-ordinate powers would necessarily give rise, is a possibility which positive law cannot contemplate, for it is unable to create any power above the constitution. The concessions which may be necessary to be made by any of the three co-ordinate powers to the other, are left to the direction of the individual conscience, and the imperious demands of necessity. Human law cannot abrogate the divine, and, therefore, no member of any of the three powers, from the sovereign downwards, can be required to disregard the dictates of conscience; but, on the other hand, necessity compels all to submit to the consequences, be they what they may, which may follow either

[1] *Guizot, Gouv. Rep.*, vol. i., p. 92.

obedience or neglect of conscience.[1] Publicity of debate, free discussion, the extraneous and powerful help of the press, all tend to the concurrent determination of disputed questions; and thus to realise the idea of Pascal,—"il provoque la multitude à se réduire à l'unité et il fait sortir l'unité du sein de la multitude." "When something *must* be done, and when it can be done only by the united consent of all,—the necessity of the case will force to a compromise." "On all questions of acting, necessity, where it exists, is the overruling motive; and where, in such cases, compromise among the parties is an indispensable condition to acting, it exerts an overruling influence in predisposing them to acquiesce in some one opinion or course of action. Experience furnishes many examples in confirmation of this important truth: among these, the trial by jury is the most familiar."[2]

It cannot, however, be for a moment forgotten, that the equality of power in the three co-ordinate branches of the Parliament—sacred as the constitutional principle may be—is still but a principle. The rights of the sovereign, which stand alone, are the symbol and safeguard of every lesser right; but they rest upon law, and not upon force. The dignity of the peerage forms a graduated hierarchy round the throne, rendering it more difficult to approach without reverence the earthly embodiment of justice, of freedom, and of honour; and their hereditary privileges,[3] by a parity of right,

[1] These consequences, as they respect the sovereign, are discussed by Blackstone (*Com.*, vol. i., p. 211). As they regard the House of Lords, perhaps the events which followed its resistance to the Reform Bill, and the ground on which the resistance was overcome,—"that," as Earl Grey said, "otherwise the government would be in fact an oligarchy," will afford an illustration. See also pp. 18—20.

[2] *Calhoun, Disquisition*, &c., p. 65.

[3] There are not wanting those who speak of hereditary legislators as an institution which the progress of society is destined to abrogate. The friends of the constitution may be allowed to hope that such opinions may not hereafter derive strength from the course taken by the House in excluding a peer created for life,—a course justly described in one of their Lordship's protests as "an unauthorised extension of the privileges of the

preserve its peaceful succession and descent. The whole combination of degrees, whilst it wisely gratifies, also sets bounds to the restless and insatiate cravings of human ambition, and forms a protection to man against his passions. These rights and privileges, again, rest upon law, and not upon force. The third estate—the representative body—stands in the place of those who are, in number and physical power, beyond comparison greater than the two other estates, and without whom the two other estates could have no existence. The will of the great constituent body, when definitively expressed,—and after every opportunity shall have been given to the people of considering and revising the determination,—must be obeyed.

It follows, then, from the vast powers with which the representative body is necessarily invested, that in its construction every avenue should be opened by which the sense of right, of justice, of prudence,—the dictates of the inward law,—can find expression within it. If it should err in its course,—if it should fail in arriving at that unity which embodies at once power, reason, and justice, the people cannot rely on the internal strength of the other two estates, for any permanent resistance to what it may demand,—nor does even the theory of the constitution justify any such reliance. The representative body should, therefore, be regarded, for the purpose of determining on its construction, as if it were the

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House, not resting on any parliamentary precedent, and in derogation of the just prerogative of the Crown." Parl. Deb., vol. cxl., p. 1311. The step was supported by the expression of what certainly seem but mean ideas of that in which personal dignity consists, and of what constitutes the heritage of an illustrious name. The whole argument against the admission of Lord Wensleydale to his seat may be described with sufficient respect by saying it was not worthy of the peers from whom it came. The resistance to any expansion of the Lower House in 1828 and 1830 bears no little resemblance to that in the Upper House in 1856.—See *Mill's Considerations on Representative Government*, chap. xiii., on the Constitution of a Second Chamber. (Note to 3rd ed.)

sole power,—which from the force of circumstances, and its means of arresting the operations of government, it may at any time in a great measure practically become. In order to complete that constitutional security which depends on a real and not on a nominal partition of power, the representative body should be composed of every distinct variety and combination of thought, of sentiment, of feeling, of opinion, and of interest which exist in the constituent multitude. All these diversities form so many pillars to support and give unity to the constitutional edifice. If the representative body be the creature of numerical majorities, the constitution will be ultimately drawn into the vortex to which governments by such majorities are exposed. In such a case, Mr. Calhoun cautions the minority, not "to indulge the folly of supposing that the party in possession of the ballot box and the physical force of the country could be successfully resisted by an appeal to reason, truth, justice, or the obligations imposed by the constitution."[1] If these could be relied on, he observes, government might be dispensed with. The end of the contest between the majority and the minority would be "the subversion of the constitution, either by the undermining process of construction,—where its meaning would admit of possible doubt,—or by substituting in practice what is called party usage, in place of its provisions;—or, finally, when no other contrivance would subserve the purpose, by openly and boldly setting them aside. By the one or the other, the restrictions would ultimately be annulled, and the government be converted into one of unlimited powers."

A representative body composed, not of the nominees of the numerical majorities, but of the actual representatives of all varieties of disposition and interest which make up society —none being suppressed, would form within itself an assembly in which the majority must necessarily be concurrent, and comprehend the elements to which Mr. Calhoun attributes,

[1] *Calhoun, Disquisition, &c.*, p. 33.

not unreasonably, so much virtue. Under such a form of composition, every division of the constituents, "in order to advance its own peculiar interests, would have to conciliate all others, by showing a disposition to advance theirs; and for this purpose, each would select those to represent it whose wisdom, patriotism, and weight of character, would command the confidence of the others. Under its influence, and with representatives so well qualified to accomplish the object for which they were selected,—the prevailing desire would be, to promote the common interests of the whole; and, hence, the competition would be, not which should yield the least to promote the common good, but which should yield the most. It is thus that concession would cease to be considered a sacrifice,—would become a free-will offering on the altar of the country, and lose the name of compromise. And herein is to be found the feature, which distinguishes governments of the concurrent majority so strikingly from those of the numerical. In the latter, each faction, in the struggle to obtain the control of the government, elevates to power the designing, the artful, and unscrupulous, who in their devotion to party,—instead of aiming at the good of the whole,—aim exclusively at securing the ascendancy of party. When traced to its source, this difference will be found to originate in the fact, that, in governments of the concurrent majority, individual feelings are, from its organism, necessarily enlisted on the side of the social, and made to unite with them in promoting the interests of the whole, as the best way of promoting the separate interests of each; while in those of the numerical majority, the social are necessarily enlisted on the side of the individual, and made to contribute to the interest of parties, regardless of that of the whole. To effect the former,—to enlist the individual on the side of the social feelings to promote the good of the whole, is the greatest possible achievement of the science of government; while, to enlist the social on the side of the individual, to promote the

interest of parties at the expense of the good of the whole, is the greatest blunder which ignorance can possibly commit.

"To this, also, may be referred the greater solidity of foundation on which governments of the concurrent majority repose. Both, ultimately, rest on necessity; for force, by which those of the numerical majority are upheld, is only acquiesced in from necessity; a necessity not more imperious, however, than that which compels the different portions, in governments of the concurrent majority, to acquiesce in compromise. There is, however, a great difference in the motive, the feeling, the aim which characterise the act in the two cases. In the one, it is done with that reluctance and hostility ever incident to enforced submission to what is regarded as injustice and oppression; accompanied by the desire and purpose to seize on the first favourable opportunity for resistance:—but in the other, willingly and cheerfully, under the impulse of an exalted patriotism, impelling all to acquiesce in whatever the common good requires."[1]

In this kingdom, a system, peculiarly national, sometimes called "Parliamentary," and at other times "Party Government," has grown up. Its essential feature is the predominance of a compact party, of which the ministers of the crown are a portion, and which is encountered in the House of Commons by another compact party, who expect to succeed it in power, on a detection and exposure of any error into which it may fall,—on the discovery and adoption of some tenet of greater popularity, or by the more skilful employment of parliamentary forces. So little difference has been understood to exist between the two parties, other than that which is founded on the possession or expectation of power, that an orator who adverted to the party out of office as "His Majesty's opposition," was applauded as the author of a felicitous appellation. It was a conflict of two hostile bodies, ever ending, and ever to be recommenced, which; but for its

[1] *Calhoun, Disquisition*, &c., p. 70.

vicissitude, might, without irreverence, be compared to those occupations of a perpetually renewed warfare, with which the Scandinavian paradise tempted the heroes of Odin,—

A round of listless joy, and weary strife.

As the system advanced towards maturity it became subjected to rules of indefinite stringency,—requiring, in order to secure majorities, that abnegation of individual opinion and perfect external harmony, to which majorities of electors are now reduced, in order to insure success. In the progress of general knowledge, it was found that innumerable subjects which had not been anticipated, became matters for parliamentary discussion, and some of the restrictions on differences of opinion were relaxed. "Open questions," were admitted to be lawful. The later parliamentary theory and practice on the subject cannot be better described than it has recently been by a statesman thoroughly experienced in it. "When I first entered Parliament, the House of Commons was divided into two camps. A leader guarded both; a leader whom no man questioned, and whom every man on his side followed. All the trouble was in his hands. His party acquiesced in everything he thought best, and, five minutes after his decision was announced to them, they were heart and soul engaged in it, clamorous that it was the only one that could be arrived at. This was a great advantage in some respects, for it saved a world of thought. But in the House of Commons of the present day we have a different state of things. The House is divided into many parties, or, rather, no party—and why? Because the country is divided into many parties, or no party. At the time the House was divided into two camps, the country was divided into two camps also. One man was blue, another yellow. Each had his own lawyers, and there was the sharpest line of demarcation between the two. The mass of people now judging for themselves, find some good on one side, some on another, and

they will not yield themselves blindly to the lead of any one man or party in the State. Now, there is great complaint of this throughout the country. Men are disturbed and unsettled by it, and they are devising means whereby the country and Parliament may be again divided into two camps. But, instead of lamenting the existence of such a state of things, and devising means to restore what I believe will never be restored again, I think we had better look our difficulties in the face. I don't lament the change. Many of the old public men in the House of Commons regret it enormously; they are bewildered by it; and they are perhaps right in their regret as public men, because it increases the trouble and difficulty of public men. But all they have lost in comfort the country has gained in public good. The result is this, that the impulsion comes from below—that the country, instead of being partisans, are now become a calm, reasoning jury; and it is necessary, now that they are to constitute the jury, that they should be capable of deciding upon the arguments laid before them. The more great measures are passed by consent, and party bitterness is extinct, the more necessary it becomes that we in the country should understand the contemporaneous political opinions we are called upon to decide."[1]

If the representation is to be constructed with the view of perpetuating party government, two considerations arise,—first, the method of effecting the object,—secondly, what would probably be the result?

The division of every constituency into two bodies, each distinguished by a political dogma, and ignoring or suppressing every opinion which these dogma do not comprise, is

[1] Mr. Sidney Herbert, Address on opening the Warminster Athenæum, Oct. 1858.—*Times*. I may be allowed to express my gratification at having collected, and presented in this place, these words of truth and soberness, proceeding from the lips of one of the best and greatest men of our time, who has since passed from among us, leaving to his country his wise counsels, and his pure example. (Note to 3rd ed.)

likely to create a representative body also divided into two parties. In order thus to procure a representation of opinions not popular with the majorities, constituencies must be created which are not popular,—or which, being popular, can be led by corruption. For these purposes the county representation may be made as full as it can be in point of members,—as restricted as possible in point of suffrage. Every effort may be made in the closer counties to keep land out of the market, and arrest the progress of building and building societies. The borough suffrage may be widened to any extent, and the ballot introduced, in order to obtain, by a wholesale corruption of the poor and ignorant, a direct influence for property. We may hope that there are few who could look forward with any complacency to such a scheme. It is indeed impossible to hear, without pity at their ignorance, or disgust at their hypocrisy, the warnings of prominent party men against improvements in our electoral system, founded on appeals to the condition of the United States, when every reader of their history knows that it is to the overwhelming power of party, pushed onwards by a covetous greed of the profits of party, and subduing all individual conscience and action, that the evils of political life in that country are owing.

What would be the result of a contrivance to render party organization omnipotent in elections in this country? An attempt to foretel the future would be presumptuous. We have seen the struggles made to gain electoral majorities. We know the nature of man,—we can scarcely doubt,—that an abject submission to the occasional will of the greatest number in any assembled multitude, will "extinguish in those who serve them all moral principle, all sense of dignity, all use of judgment, and all consistency of character." "When the leaders choose to make themselves bidders at an auction of popularity, their talents in the construction of the state will be of no service. They will become flatterers instead of

legislators; the instruments, not the guides of the people. If any of them should happen to propose a scheme of liberty, soberly limited and defined with proper qualifications, he will be immediately outbid by his competitors, who will produce something more splendidly popular. Suspicions will be raised of his fidelity to his cause. Moderation will be stigmatized as the virtue of cowards; and compromise as the prudence of traitors; until, in hopes of preserving the credit which may enable him to temper and moderate on some occasions, the popular leader is obliged to become active in propagating doctrines and establishing powers which will afterwards defeat any sober purpose at which he ultimately might have aimed."[1]

The office of the House of Commons, as the exponent of public opinion, is of vast importance, and deserves the utmost attention. In that assembly, public opinion should be gathered and expressed with clearness and certainty. It should be registered there with an accuracy resembling that of the thermometer; and that can only be when the House collects and receives all varieties of opinion from without. There is nothing else connected with the science of government which it is of equal importance in a free state that the minister should always be able to ascertain. Any defect in the representative constitution which leads the minister or the people to look elsewhere for the manifestation of public opinion is fraught with the gravest dangers. Public opinion is a sea over which a well-taught pilot may navigate in safety; but, to the uninformed, it is the "gulf profound"

Where armies whole have sunk.

It is strewed with the wrecks of governments. The rarest and most necessary qualification of a statesman is "the faculty of discerning what the nation really desires and thinks; of distinguishing between the intelligent and the unintelligent

[1] *Reflections*, &c., p. 361.

public opinion,—between the orators and the organs that have weight, and those that have none,—between the voice which is influential and the voice which is only loud;—in a word, between the popular *pronunciamento*, which it would be weakness and wickedness to listen to, and that which it would be unpardonable to disregard, and idle to dream of opposing. The task demands no little care, and no ordinary tact; it belongs to a sagacity partaking of the character of an instinct, which some men of very moderate genius have in perfection,—of which others of far loftier intellect are entirely destitute. It requires singular accuracy of judgment and acuteness of perception; a practical acquaintance with every rank and class of the community, or that intuitive insight which, with some men, appears to supply its place; and a mental ear so fine, sensitive, and subtle, as to be able (so to speak) to hear the language of the silent, as well as that of the outspoken and the noisy, and to discriminate between the tones of resolute earnestness, and those of mere bustling loquacity." Without this rare discernment, he "is for ever steering between two dangers: that of opposing a stolid and insensible defiance to the real and serious demands of the popular will, and that of yielding a weak obedience to the noisy outcries of a worthless, insignificant, and powerless few, and incurring thereby the infinite disgust of the influential, but silent and contented class."[1] If the House of Commons be not the actual, as well as the constitutional organ of public opinion, the nation is left open to the attacks and the enterprises of irresponsible persons, who are thereby encouraged to usurp its office. It is impossible to estimate the mischief to which a misconception of public opinion may lead. The tendency in the mind to believe what it desires to think, is expressed in the proverb, that "the wish is father to the thought." It is not less inclined to fancy that the opinions of others assimilate to its own.

[1] *Edinburgh Review*, vol. xcv., p. 234.

There is, again, a disposition in most minds to exaggerate any circumstance or action which they have themselves witnessed, or in which they have borne a part. A sort of imaginary importance or glory is acquired by being able to narrate something out of the common. We are, perhaps, told of a numerous and influential public meeting in London, attended by merchants, bankers, traders, and persons of all classes; and the concurrence of their opinions on some agitated subject is dwelt upon as a great fact. If during the hour that this meeting was held we had gone to the banks, to the merchants' and brokers' offices,—the exchanges,—the docks,—the shops of the principal tradesmen,—we should probably have found all the ordinary work of the establishments going on, and few or none of the active heads of any business absent from their usual posts. We are told of the names of many who were present, but such an array is easily made imposing; and if examined, it would very likely appear to have been,—besides those who led the movement,—only a few of the senior members of firms, in the business of which they are no longer regularly or personally engaged, and who are gratified with celebrity in the public journals,—a few others desiring, or glad of an excuse for, an hour or two of relaxation;—a number of unemployed persons in easy circumstances, to whom the opportunity of hearing speeches on a popular topic is a pastime, or a harmless kind of dissipation; —and the idle, who, when not kept at home by the rain, are always ready to make up a crowd. The men of business, upon whose industry and labour the wealth of the nation depends, are unconcerned, and take no interest in the matter. Of course, it *may* be otherwise; but the public has little or no evidence one way or the other; it may be deluded, either by those who exaggerate, or those who disparage the value of the expression. It may be misled by the statement that a great manifestation had been made, and be induced to imitate it elsewhere; and thus a comparatively few

persons may give to their own notions the semblance of the popular voice.

One example of a declaration of public opinion has occurred to this generation. The political convulsions on the Continent ten years ago caused great excitement amongst the poorer classes in England, and an urgent demand arose for changes in the representative system. The claim was asserted in the calm and constitutional form of addressing Parliament by petition; and in order to give it further weight, a public meeting on Kennington Common was resolved upon. The belief of the intensity of feeling on the points in question, caused great apprehension to be felt by the more wealthy classes; who remembered that a few years earlier even the Duke of Wellington had been led by apprehensions of disturbance to advise the King not to attend an entertainment in the city of London. On the appointed day business was suspended. The petitioners assembled in great numbers,[1] and the opponents of the movement occupied the public buildings and halls north of the Thames. Nothing occurred to provoke any collision,—nor was there evidence that any outrage was intended. The exaggerations of the statements with regard to the popular expression which had been dispersed, and excited so much terror, were very remarkable. The petition, which was for annual parliaments, universal suffrage, equal electoral districts, and the payment of members, was presented by Mr. Feargus O'Connor, a gentleman of great earnestness and undoubted personal integrity. He stated,—and justified the statement by letters he had received,—that the petition was signed by 5,706,000 persons. The Committee on Public Petitions ascertained and reported that the signatures were 1,975,496, that many consecutive sheets were in the same handwriting, and many signatures fictitious. The meeting on Kennington

[1] April 10, 1848.

Common, where half a million were said to have assembled, was shown never to have exceeded at any time 23,000 in number.

In a case which could thus be subjected to accurate measurement, we find an example of the error to which the Government and the public are exposed in the reception of statements relating to the general feeling or opinion when it is gathered from mere assertion and rumour. If the nominal representative body do not truly represent the people, or if it represent only a majority of numbers out of which all distinctive individuality, which is the essence of character and opinion, has been extracted in the process of its formation, public opinion will be necessarily sought for by other means, however imperfect or deceptive.

Amongst the causes enumerated by Mr. Calhoun as contributing to make monarchies the most prevalent and usually the most durable governments, he mentions, as the leading one, their greater capacity of improvement. When,—he observes,—the hereditary form is well defined, it identifies the interests of the Sovereign and the subject, excludes the suspicion and hostility incident to insecurity, and creates the strong feelings of paternity on one side, and loyalty on the other. When,—he adds,—the hereditary principle is extended to other families, and a powerful body of nobles surround the Sovereign, they oppose a strong resistance to his authority, and he to theirs, tending to the advantage and security of the people. Such governments settle down on some fixed rules of action, by which increased protection and security are acquired by all;[1] and thus, under the enlightened monarchies of Europe, the people have made such

[1] "The ruin of the ancient democracies was, that they ruled as you [the French National Assembly] do, by occasional decrees, *psephismata*. This practice soon broke in upon the tenor and consistency of the laws; they abated the respect of the people towards them, and totally destroyed them in the end."—*Burke, Reflections*, &c., p. 305. See the Psephisms contrasted with the respect for law, in *Lucas's Secularia*, pp. 16, 17.

great advances in power, intelligence, and civilization.[1] "It remains to be seen, whether they will continue to retain their advantages, under the great and growing influence of public opinion, and the new and imposing form which popular government has assumed." "To comprehend more fully the force and bearing of public opinion—and to form a just estimate of the changes to which, aided by the press, it will probably lead, politically and socially, it must be considered in connexion with the causes that have given it an influence so great, as to entitle it to be regarded as a new political element."[2] The more prominent of the causes referred to, are the discoveries and inventions of the last few centuries; printing, the compass in navigation, gunpowder in war, the application of mechanical and chemical laws to the arts of production, and of steam to machinery, facilitating travel and transportation by land and water. Hence the increase and diffusion of knowledge; an impulse to progress and civilization heretofore unexampled, accompanied by unprecedented mental energy and activity, to all which causes, public opinion, and its organ the press, owe their joint and powerful influence. "Already they have attained a force in the more civilized portions of the globe, sufficient to be felt by all governments, even the most absolute and despotic. But, as great as they now are, they have as yet attained nothing like their maximum force. It is probable, that not one of the causes which have contributed to their formation and influence, has yet produced its full effect; while several of the most powerful have just begun to operate, and many others, probably of equal, or even greater force, yet remain to be brought to light." When they have produced their full effect, "they will give a force to public opinion, and cause changes, political and social, impossible to be anticipated. Their final bearing, time only can decide; but, that they would improve the condition of man, it would be impious to doubt." "The first effect

[1] *Calhoun, Disquisition*, &c., p. 85. [2] Id., p. 87.

of such changes on long-established governments will be, to unsettle the opinions and principles in which they originated, and which have guided their policy, before those which the changes are calculated to form and establish are fairly developed and understood. The governments of the more advanced and civilized portions of the world are now in the midst of this period of transition. It has proved, and will continue to prove, a severe trial to existing political institutions of every form. Those governments which have not the sagacity to perceive what is truly public opinion,—to distinguish between it and the mere clamour of faction, or shouts of fanaticism,—and the good sense and firmness to yield timely and cautiously to the claims of the one,—and to resist, promptly and decidedly, the demands of the other, are doomed to fall. Few will be able successfully to pass through this period of transition, and these not without shocks and modifications, more or less considerable. It will endure until the governing and the governed shall better understand the ends for which government is ordained, and the form best adapted to accomplish them, under all the circumstances in which communities may be respectively placed."

The press must at this day be regarded as an important political element, and has not, without great truth and significance, claimed for itself the title of the "fourth estate." It exercises *two* functions, one of which it performs much more perfectly than the other. It creates the public opinion of which it is the exponent, and professes to expound that which it has created. The press, taken in its largest meaning, is the lever of the mind. It cannot eradicate the desires or the passions of mankind; but, with this limit to its power, it is hardly possible to exaggerate its importance, or its value in education,—in producing salutary changes on the condition of society,—in exploding political errors,—in promoting the social and benevolent, as opposed to the individual and selfish feeling,—and thereby bringing public opinion to a sound and

wholesome state. When we come to observe its other function, that of expressing and making known the opinion which the public have formed,—we begin chiefly to consider the periodical press,—a very powerful part, but not the whole,—and we immediately perceive how insufficient for such an office are the materials of which it can be in possession. Of the many millions of persons composing the nation, how few think it necessary to divert their attention from their ordinary pursuits, even to make up their minds on most of the public questions which arise;[1] how few, again, distinctly express their opinions,—how few communicate them to the press. The press has no statistical or other means of ascertaining the opinions of the vast and silent mass. "It is strange that all our institutions are to be at the mercy of one authoritative voice, and that of the utterances of that voice there should not be as much as one authorised reporter."[2] If every one of the 2,866 persons who were in the census described as "authors and literary men," divided the kingdom amongst them, and devoted themselves to the business of gathering the opinions of the people on the immense number and variety of subjects connected with the public welfare, they would fail to ascertain any true public opinion. Their numbers would be unequal to grapple with the multitude of people and of questions: they would find comparatively few to respond to their interrogatories; and the catechism would be upon matters as to which the vast majority had as yet formed no creed or opinion.

In fact, however, literary men are not engaged in such a profitless inquiry. They have a more elevated function. It

[1] Mr. Henry Taylor, in *The Statesman* (p. 56), London, 1836,—observes on the fact, that most men put off making up their minds, even on matters affecting *themselves*, until they have to act, write, or speak respecting them.

[2] Sir James Stephen. I may refer also to the well-known and curious inquiry of Mr. Kinglake, in his work on the *Invasion of the Crimea*, of the manner in which public opinion has been supposed to be sounded and urged on. Vol. ii., pp. 74—86.

has been observed,[1] that formerly the debates in the House of Commons guided, strengthened, and ruled public opinion; but that they do so no longer, because the speakers are anticipated, and public questions better and more completely treated in the articles contained in periodical literature. It is to the press, it is said, "that we must look for the formation of the great mass of public opinion on political and social questions, and it is of importance to watch with the greatest care any defects capable of remedy which diminish the good influence the press exercises; and if any one can contribute to improve the strength of the press for good, and to diminish it when it tends towards evil, he can confer no greater benefit upon the community at large."[2]

All, or nearly all important subjects, will necessarily be discussed in the press, before they are considered in the Legislature; for the Legislature is a limited body with a definite purpose, whilst the press is illimitable in diffusion, and boundless in capacity. It is in its great office, as the vehicle of public instruction, that the inestimable value of the press consists. As the universal repertory of ever-multiplying facts, and of the reasoning to which they may lead, it has become the indispensable daily food of civilisation. It is only in the event of its reporting, or assuming as *fact*, that which is *not* fact,—and of its reasoning on such false representation or assumption, that it may mislead. Such errors must be as prejudicial to the progress of political, as of every other science. They are more dangerous in political science, from the difficulty of testing them,—the infinite varieties of capacity amongst those who are more or less engaged on the subject,—and the passions which interfere to disturb inquiries so much more largely in moral than in physical science. It is

[1] Mr. Sidney Herbert, in the address already quoted, p. 237.

[2] The most important questions here raised have been considered in Mr. Mill's *Dissertations and Discussions*, 1859. See article on *Civilization*, vol. i. (Note to 3rd ed.)

very possible for a writer, who has a strong feeling or bias on any particular subject, honestly to believe and represent that which is his own opinion to be the opinion of the public. As a supposed organ of public opinion, the press is at all times imperfect, and may become dangerous.

The danger would result from trusting any body of men, however high in character, to wield a machine of such vast power as "public opinion." In *forming* public opinion we have seen that the press is the most potent of material gifts which has been vouchsafed to man. Diverse and antagonistic views and interests may all invoke its aid, and be heard before the great court of reason and conscience. But when the press assumes to *declare* public opinion, it ceases to be the advocate and takes the office of judge. In preparing itself for this high function, it is assailed by all the disturbing causes of party and private influence and interest, which bias the conduct and corrupt the judgment of mankind. It is also important not to forget, with reference to the public journals, that they must necessarily be conducted on mercantile principles. They must be remunerative or they cannot long continue.[1]

"If what is called public opinion were always the opinion of the whole community, the press would, as its organ, be an effective guardian against the abuse of power, and supersede the necessity of the concurrent majority; just as the right of suffrage would do, where the community, in reference to the action of government, had but one interest. But such is not the case. On the contrary, what is called public opinion, instead of being the united opinion of the whole community, is, usually, nothing more than the opinion or voice of the strongest interest or combination of interests, and not unfrequently, of a small but energetic and active portion of the whole. Public opinion, in relation to government and its policy, is as much divided and diversified as are the interests

[1] See this point succinctly stated in a short note to Mr. Wingrove Cooke's *History of Party*, vol. iii., p. 613.

of the community; and the press, instead of being the organ of the whole, is usually but the organ of these various and diversified interests respectively, or rather of the parties growing out of them. It is used by them as the means of controlling public opinion, and of so moulding it as to promote their peculiar interests, and to aid in carrying on the warfare of party." "As the instrument of party warfare, it contributes greatly to increase party excitement, and the violence and virulence of party struggles, and, in the same degree, the tendency to oppression and abuse of power. Instead, then, of superseding the necessity of the concurrent majority, it increases it by increasing the violence and force of party feelings,—in like manner as party caucuses and party machinery; of the latter of which, indeed, it forms an important part."[1]

The opinion which is declared by the press to be that of the public is very likely to become so if the declaration be believed, however unhappy or evil may be the course to which

[1] *Calhoun, Disquisition*, &c., p. 77. "The present vitiated state of the public taste admits of no neutrality; no lukewarmness. The mangling of the public and private character of political men, the debasing of the motives of action of the loftiest and purest to a level with the meanest, the fomenting of party rage and party hate, these are the dishes that are devoured with most avidity. At this day no politician cares for the boldness, frankness, or integrity of an individual editor. He buys a paper because it is an agent of his party, to promote or to preserve its elevation. Whenever an editor undertakes to think for himself or differently from party dictation, the party ceases to sustain him. The editors do but imitate our leading politicians, who themselves imitate the lawyers. They handle all political questions like fee'd advocates, and consider themselves as standing in that attitude before the country; and, as such, feel justified in making the most of the cause in which they are enlisted, good or bad. All this is most pernicious, when we consider the immense influence they exercise over public opinion and public morals. Though a politically debased public press is rather the consequence than the cause of a vitiated state of public morals, yet such is the influence of the press in augmenting such a state of morals, that nothing is better deserving an anxious care than the preserving it pure, independent, and respectable, and the removing from our institutions everything that bears upon it with a contrary tendency."—*Conservative Essays, Legal and Political*, by S. S. Nicholas, of Louisville, Kentucky, pp. 473, 474. Philadelphia, 1863.

it leads. People yield their assent and concurrence to what seems to them inevitable. If it should happen to become the opinion of an apparent majority, and be adopted by those in power, it proceeds with a vastly accelerated rapidity, overwhelming all opponents. "The negative power is always far weaker, in proportion to its appearance, than the positive. The latter having the control of the government, with all its honours and emoluments, has the means of acting on and influencing those who exercise the negative power, and of enlisting them on its side, unless it be effectually guarded; while, on the other hand, those who exercise the negative, have nothing but the simple power, and possess no means of influencing those who exercise the positive power."[1]

It has been lately said, that "political principles are at best but the product of human reason; while political practice has to do with human nature and human passions, of which reason forms but a part; and on this account the proper business of a statesman is to contrive the means by which certain ends may be effected, leaving it to the general voice of the country to determine what those ends shall be."[2] A House in which every member would sit as the representative of an unanimous constituency will effectually prevent any successful counterfeit of the public voice, for he will have been selected as the most accurate medium for conveying the opinions of his constituents, not only on the subjects on which those opinions had been awakened, but on those on which they were latent, and might be evoked by new and unexpected circumstances. They agree with him from sympathy or from deference. The general opinion of the nation,—including that large body which now silently and passively submits to disturbing elements and causes, will thus be readily and habitually manifested. The operation of the system in this respect is so important that it requires especial comment.

[1] *Calhoun, Disquisition*, &c., p. 284.
[2] *Buckle, Hist. Civilisation*, vol. i., p. 475.

It is from the regular exercise of political functions by those who are entitled to exercise them, that the steady operation of the great machine of state can be relied upon. If such duties be only taken up in times of excitement, its action will be spasmodic rather than sober and progressive. "A system of rule under which the sovereign power is dormant and inert when ordinarily comfortable, and called into action and made omnipotent only when frantic with misery;—under which it abnegates its functions in hours of calm, to resume them in its moments of passion;—under which it drops the reins when the driving is easy and the road is smooth, to snatch them at those difficult and perilous passages when the cool and dexterous hand of long experience is especially required,—surely carries its own condemnation on its face." [1] And to guard against this irregularity, it has been suggested that, on any considerable extension of the franchise, it would be desirable to make its exercise compulsory.[2] The proposal is directed in effect to the same object as that of the well-known law of Solon,—coeval with democratic institutions,—which decreed disfranchisement and dishonour to him who, on the occasion of a division and tumult in the city, should stand aloof and take part with neither side.[3] It would naturally be a part of the first conception of a democratic body, that its action should be like that of ONE man. It is only by giving it the energy and decision of a single will that a multitude can deal with its internal interests or be dealt with by strangers as a competent and self-acting body. The more fitful and irregular its action the more it becomes feeble and open to intrigue. To the extent in which every individual will is actually comprehended in any expression which purports to be that of the general will, to that extent its own members as well as strangers may depend upon the national firmness and persistency. It can hardly be doubted, that, if

[1] *Edinburgh Review*, vol. xcv., p. 277. [2] Id.
[3] *Plut. in Solon*, i., 89.

the feeling of the British people upon the late designs of Russia against Turkey had been perfectly known, these designs would have been abandoned, and an unhappy war would have been averted. Mr. Grote, speaking of the law of Solon, observes that it "seems more in the nature of an emphatic moral denunciation, or a religious curse, than a legal sanction, capable of being formally applied in an individual case, and after judicial trial." "We may, however," he adds, "follow the course of ideas under which Solon was induced to write this sentence on his tables, and we may trace the influence of similar ideas in later Attic institutions. It is obvious that his denunciation is confined to that special case in which a sedition has already broken out: we must suppose that Kylon has seized the Acropolis, or that Peisistratus, Megaklês, and Lycurgus, are in arms at the head of their partisans. Assuming these leaders to be wealthy and powerful men, which would in all probability be the fact, the constituted authority—such as Solon saw before him in Attica, even after his own organic amendments—was not strong enough to maintain the peace; it became in fact itself one of the contending parties. Under such given circumstances, the sooner every citizen publicly declared his adherence to some one of them, the earlier this suspension of legal authority was likely to terminate."[1] Mr. Grote does not suggest any reason for limiting the operation of the law to cases of such extreme emergency. It would be of efficacy and value in every case of tumult,—every strong manifestation of adverse opinions,—every standing apart in the public assembly, or every case arising out of the power which the Solonic constitution gave to the people in that assembly. Commentators of the law have considered its principle to be deserving of very wide extension.[2] It is agreeable to all theory and all experience,

[1] *Grote, Hist. of Greece*, vol. iii., p. 190.

[2] *Aulus Gellius, Noct. Attic.*, ii., 12; *Voy. du Jeune Anacharsis*, vol. i., p. 111. Paris, 1790.

that in every great question by which a nation can be agitated or divided, nothing could sooner tend to bring the contest to an end, than an expression of the general will.

"There is in all parties, between the principal leaders in Parliament and the lowest followers out of doors, a middle sort of men, who, by the spirit of that middle situation, are the fittest for preventing things from running to excess. But *indecision*, though a vice of a totally different character, is the natural accomplice of violence. The irresolution and timidity of those who compose this middle order, often prevent the effect of their controlling situation. The fear of differing with the authority of leaders on the one hand, and of contradicting the desires of the multitude on the other, induces them to give a careless and passive assent to measures in which they never were consulted: and thus things proceed, by a sort of activity of inertness, until whole bodies, leaders, middle men, and followers, are all hurried, with every appearance, and with many of the effects, of unanimity, into schemes of politics, in the substance of which no two of them were ever fully agreed, and the origin and authors of which in this circular mode of communication, none of them find it possible to trace." "The sober part give their sanction, at first through inattention and levity; at last they give it through necessity. A violent spirit is raised, which the presiding minds, after a time, find it impracticable to stop at their pleasure, to control, to regulate, or even to direct."[1]

The press not only, it is observed, takes from the statesman his initiative action, but it supersedes the function of the orator. "As printing and book-reading increase, the gifts of public orators will become of little or no value."[2] There is little doubt, as Parliament shall become composed of men of a more reflective order of mind, it will be less an arena for the display of mere extempore crudities. The debates may here-

[1] *Appeal from the New to the Old Whigs*, p. 122.
[2] Mr. Sidney Herbert, see p. 237.

after be the brief expression of condensed thought. Instead of many of the oral addresses, the habit may be adopted of embodying and conveying reasons carefully prepared in the shape of propositions, to be entered on the proceedings of the House,—having some resemblance to the protests in the Lords. The economy of time, and the improvement in logic by such a process would be incalculable. It requires a different, and, for a deliberative body, a more valuable order of mind than mere oratory demands. It is more difficult to convince the understanding by close reasoning and irrefragable proof, than to captivate the mind by vague generalisations and plausible analogies. The positive is always restricted to some narrow and rigid limits,—to what is imaginative there are no bounds. It is, indeed, impossible to conceive any step in our progress onwards which will not require an increase of legislative talent and power,—whether it be to lead, to guide, or even to retard, where further deliberation may be necessary.

Another effect of a perfect system of representation, such as that which has been proposed, would be to strengthen the executive government. It would give to the ministry that assurance of the confidence of the people, which none of the existing machinery can afford. It would probably become the habit of every intelligent elector to place on his voting-paper, in addition to the name of his local candidate, the names of the statesmen he regarded as the most eminent, and an expression of the general opinion would be thus afforded which none could despise. The grounds of opposition to the measures of a cabinet in support of whose members some hundred thousands of electors had declared their willingness to vote, must be far other than selfish or factious, before a parliamentary majority would unite to displace them,—and thus incur the danger of a step which might be suicidal for themselves.[1]

[1] The appropriation of no more than the quota of votes to any member,

It would also further strengthen the position of every government, by the perfect security of the seats of all the principal statesmen in the House from the effect of local or individual prejudices or enmities. Under the present system, all the consideration which is due to knowledge, experience, integrity, and industry, displayed in a laborious life, may be disregarded, and their possessor excluded from Parliament, from some accidental offence to a few influential members of a constituency, or from some petty and miserable pique. Against all such sinister influences the statesman might,

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however numerous his supporters might be, appeared to M. Morin a defect in the system, which required amendment in its application to Geneva. "Attribuer," says M. Morin, "le même nombre de voix à tous les deputés qui ont obtenu le quantum voulu et les représenter comme n'ayant pas plus de valeur les uns que les autres aux yeux des votants c'est s'écarter de la vérité et ne pas exprimer la pensée réelle du corps électoral. Dans un pays comme l'Angleterre, où le pouvoir est stable dans la personne du souverain, cette uniformité factice serait probablement sans grand inconvénient; mais dans une république, il est utile que les députés sachent, en vue de leur influence ultérieure, qu'ils sont les élus d'une parti plus ou moins notable du corps électoral. Cette connaissance est de nature à leur inspirer une certaine confiance en eux-mêmes, proportionnée à celle qu'on leur a témoignée, et peut, dans les circonstances très-graves, leur donner la hardiesse et le courage nécessaires pour détourner l'orage. Dans la vie des peuples il y a des crises, des occasions solennelles, pour lesquelles, le crédit personnel d'un deputé, le caractère ferme et décidé d'un citoyen estimé sont comme des forces, tenues providentiellement en réserve, qu'il y aurait imprudence à anéantir."—(*De la Représentation des Minorités*, p. 17.) Neither the public estimation, nor the self-confidence of the statesman or patriot, would be diminished by a law which enables a comparatively small number of his countrymen to elect him. The withdrawal of the excess of votes given to the more distinguished candidates beyond the quota necessary for their return, and the appropriation of those votes to other candidates, will in no respect lessen the weight which the first derive from the extent of support proffered to them. Not only will the recorded sympathy of a great number of voters have its moral force in commanding due attention to their opinions and measures, but the election of other members by their supporters will generally tend to augment their power in the legislative body, by strengthening the party to which they belong.

under a condition of individual independence, safely appeal to the electors at large, who will be actuated by no such narrow motives. The most important interests of a great people may be set at nought by the jealousies or caprices of the voters within a certain limited borough,—voters possessing none of the high qualifications above their fellow-men which could entitle them to pronounce such a veto. It would no longer be possible for the electors of any particular constituency to ostracise an eminent member of the House. Every one might fearlessly pursue an independent course of conduct, satisfied that if he should lose the support of one portion of his constituents, there was little doubt of his gaining that of others.

The free action of individual minds extending over a vast population, not cramped or distorted by party or selfish objects, would bring to the aid of the Government and to sound political progress, the operation of those large and general causes, the force of which has hitherto been excluded. It is found that physical laws,—which in their operation on single individuals appear so uncertain and capricious,—when examined in their bearing and effect on large numbers of persons, proceeed with undeviating regularity. The uncertainty which exists of the duration of an individual life ceases when the lives of a large number of persons are taken into the account, and companies for the insurance of lives accumulate large funds by a calculation of profits which they can form with mathematical accuracy. Not only mortality but crime is found to be governed by laws which operate with wonderful uniformity, and even inadvertencies happen in a ratio which corresponds with the repetitions of the act in which they occur. It is asserted, with no unreasonable confidence, that statistical knowledge will be hereafter the basis of history,—and that it will be "as rare to find an historian who denies the undeviating regularity of the moral world, as it is now to find a philosopher who denies the regularity of

the material world."[1] By connecting public events and the business of the state with the caprices of will and disposition, and the other disturbing and corrupting causes which are encouraged to interpose in detached and limited bodies of electors, the action and fate of the Government, and of its members, are disturbed by the same causes, and made capricious and uncertain, exhibiting vicissitudes, which, it has been recently remarked, sometimes bear almost a resemblance to the condition of ministers under an oriental despotism. The votes constantly given by one or two millions of persons,—subjected to no disturbing influences of any extensive operation,—may be expected to preserve such an uniformity of contemporary character and opinion, as will give general stability to good government. Instead of shrinking from the inconvenience and dreading the consequences of frequent parliamentary elections,—their frequency would be regarded by the minister as a source of confidence and strength. It may be assumed that he will be a man of the highest talent and character,—able to ameliorate while he also preserves,—and, therefore, one on whose activity and moderation vast numbers will be content to rely. His own seat in the House would be in no danger. He would be re-elected with the tranquil certainty with which a director of the Bank is replaced. The result of every general election would be to furnish him with a faithful index of the progress and existing state of public opinion. A triennial election would be soon considered as recurring at too long rather than too short an interval,—for the minister would find his main support not in any party arrangements or complications, but in the sense and approbation of the people.

[1] See *Buckle's History of Civilisation*, vol. i., p. 30.

CHAPTER XII.

THE SUFFRAGE.

THE subject of the suffrage has been reserved, as a matter which, in one respect only, is necessarily affected by, and affects, the system of representation suggested in this work. A provision has been introduced for enabling any district, town, or parish, to obtain a charter, entitling it to return a representative,[1]—or in another, and perhaps better understood form of expression, to constitute itself one of several contributory boroughs. The right is proposed to be conferred by an order of the Queen in council, and is designed to be purely a change in division and arrangement in no respect affecting the right of suffrage. If a distinction of the right of suffrage depending on the place of residence be obstinately adhered to, it might in certain cases be an impediment to the equal operation of such a law,—for a village, which, having grown into a town, should apply for incorporation as a borough, would find itself with a different suffrage from other boroughs, as it would be framed on the county franchise. It would not be proper to vest in the executive government the power of affecting the suffrage.

It may be hoped, however, that when the subject is examined in all its bearings, every party will agree on the abolition of distinctions, which are unworthy of the age in

[1] Clause V.

which we live, and carry us back to the times of the Norman villeins or the Saxon thralls. The true principle on which the bill of Mr. Locke King for a £10 franchise in counties should be supported is, that it proposes the adoption of the *same* electoral standard in the counties as obtains in the towns: the principle is equality of the suffrage, wherever the place of residence may be. If any persons delude themselves with the thought that a concession of a £10 suffrage in the counties,—if it be reduced below that standard in the boroughs,—will be a final measure, they cannot be too soon undeceived. If it be made £5 in the boroughs, and £10 in the counties, they may be assured of this consequence,—a consequence which may be safely predicted without any pretensions to the spirit of prophecy,—that in the session of Parliament which follows such an Act, some county member, who, like Mr. Locke King, is able to regard himself as representing his county, and not merely a privileged class of its inhabitants, will ask for leave to bring in a bill reducing the standard to £5 in the counties. It is a logical, a necessary, and an inevitable result. It may fail the first time, or the second,—but that which is undeniably just will, at no distant day, assuredly prevail. By withholding it as long as that can be done, its adversaries may succeed in producing hostility and rancour. They may alienate those who otherwise would be their friends,—but for any purposes of good, their efforts will be impotent. When other anomalies are removed, many of the representatives of the counties will perceive the impropriety of preserving one which treats the rural inhabitants as a servile class, stamped by the legislature with the seal of inferiority. As they ride through the country,—the retired hamlet, and the antique market-village,—they will experience an ingenuous shame at beholding men, many of whom, by long converse with the external world,—

> Amid the bounties of the year, the peace
> And liberty of nature,—

have acquired "the wisdom which works through patience," whom they had yet allowed to be excluded from the highest of civil rights,—rights which are conceded to others far inferior to them morally or physically, in some neighbouring borough. So much it has been thought necessary to say on behalf,—not of any particular qualification,—but of an equality of qualification,—not an equality of every man with every other, which the common sense of mankind has in all ages repelled,—but an equality of every man of any rank and class with others of the same rank and class as himself, —an equality wholly unaffected by the plot of ground which may constitute his freehold, or be the site of his dwelling.

The proper qualification to be adopted as the test of the right of suffrage is a question independent of that of its equality. It deserves much consideration, to what extent there is any just reason for lowering the general standard of qualification adopted in the Reform Bill. It would be desirable to try the effect of good laws in enabling the great masses of the people to rise to that standard; but the misfortune is that such laws are obtained slowly, and with difficulty, if obtained at all, in the absence of sufficient members of the legislative body really interesting themselves for the poorer of the working classes. It is important to consider the true principle to be observed in conferring the suffrage.

The question of *right* may be first considered. "If civil society be made for the advantage of man, all the advantages for which it is made become his right. It is an institution of beneficence; and law itself is only beneficence acting by a rule. Men have a right to live by that rule—they have a right to justice—as between their fellows, whether their fellows are in politic function or in ordinary occupation. They have a right to the fruits of their industry, and to the means of making their industry fruitful. They have a right to the acquisitions of their parents,—to the nourishment and improvement of their offspring,—to instruction in life, and

consolation in death. Whatever each man can separately do, without trespassing upon others, he has a right to do for himself; and he has a right to a fair portion of all which society, with all its combinations of skill and force, can do in his favour. In this partnership all men have equal rights, but not to equal things. He that has but five shillings in the partnership has as good a right to it as he that has five hundred has to his larger proportion. But he has not a right to an equal dividend in the product of the joint estate; and as to the share of power, authority, and direction which each individual ought to have in the management of the state, that I must deny to be among the direct original rights of man in civil society; for I have in my contemplation the civil social man, and no other. It is a thing to be settled by convention. If civil society be the offspring of convention, that convention must be its law. That convention must limit and modify all the descriptions of constitution which are formed under it. Every sort of legislative, judicial, or executory power are its creatures. They can have no being in any other state of things; and how can any man claim, under the conventions of civil society, rights which do not so much as suppose its existence?—rights which are absolutely repugnant to it?" "Government is not made in virtue of natural rights, which may and do exist in total independence of it, and exist in much greater clearness, and in a much greater degree of abstract perfection: but their abstract perfection is their practical defect. By having a right to everything, they want everything. Government is a contrivance of human wisdom to provide for human *wants*. Men have a right that these wants should be provided for by this wisdom. Among these wants is to be reckoned the want, out of civil society, of a sufficient restraint upon their passions. Society requires not only that the passions of individuals should be subjected, but that even in the mass and body, as well as in the individuals, the inclinations of men should be frequently

thwarted, their will controlled, and their passions brought into subjection. This can only be done by a *power out of themselves;* and not, in the exercise of its functions, subject to that will, and to those passions which it is its office to bridle and subdue. In this sense the restraints on men, as well as their liberties, are to be reckoned among their rights. But as the liberties and the restrictions vary with times and circumstances, and admit of infinite modifications, they cannot be settled upon any abstract rule; and nothing is so foolish as to discuss them upon that principle. The moment you abate anything from the full rights of men, each to govern himself, and suffer any artificial positive limitation upon those rights, from that moment the whole organisation of government becomes a consideration of convenience. This it is which makes the constitution of a state, and the due distribution of its powers, a matter of the most delicate and complicated skill. It requires a deep knowledge of human nature and human necessities, and of the things which facilitate or obstruct the various ends which are to be pursued by the mechanism of civil institutions. The state is to have recruits to its strength, and remedies to its distempers. What is the use of discussing a man's abstract right to food or to medicine? The question is upon the method of procuring and administering them."[1]

"The rights of men in governments are their advantages; and these are often in balances between differences of good; in compromises, sometimes between good and evil, and sometimes between evil and evil. Political reason is a computing principle; adding, subtracting, multiplying, and dividing, morally, and not metaphysically or mathematically, true moral denominations."[2]

The question with which we are met on the threshold is,

[1] *Reflections*, &c., pp. 89, 90.

[2] Id., p. 92. See on this subject *Mill's Considerations on Representative Government*, chapters iii. and viii.

whether, in conferring the franchise, there should be *any* test of capacity,—and, if that be answered in the affirmative, the next is, what that test of capacity shall be. It has never been denied, by those who have condescended to enter upon details, that the first question must be answered in the affirmative,—although that which was at one time the popular formula, *universal* suffrage, apparently repudiates any test, whether of condition, of sex, or of age. The term "manhood" suffrage, implies that "manhood" is to be the test. It must be applied by the aid of the lawyer, the physiologist, or the statistician.

The law gives to one whose father has died without appointing him a guardian, and who has no mother, and no property attracting a guardianship by tenure, the power even *before* fourteen years of age, of electing a guardian for himself; and "as to a guardian *after* fourteen, it appears, from the ending of guardianship in soccage at that age, as if the common law deemed a guardian afterwards unnecessary."[1] It would probably be about that age at which the definition of the physiologist would properly attribute the term "manhood."[2] Other applications of the description are furnished in statistical classifications of the ages of life.

In the report of the Registrar-General on the census, printed in 1854, we have the description of two ages of manhood:—"The second age or vicenniad (20—40), of which *thirty* years is the central point, embraces the early period of manhood. Growth is completed; weight, stature, and strength are at their maximum. It is the athletic, poetic, inventive, beautiful age,—the prime of life. It is the soldier's age. The apprentice becomes the journeyman, who attains at the end the highest mechanical skill, and earns the highest wages. Marriage is contracted, and the man first hears the name of father from the lips of his children. In bad natures

[1] *Co. Lit.*, 88, b. (n) 16: ed. 1832, by *Hargrave and Butler.*

[2] See *Eng. Dict.* in voc.

and in unfavourable circumstances it is the age of crime, of passion,—of madness, which breaks out in its wildest forms, —as well as of wasting maladies.

"In the third vicenniad (40—60), of which the middle point is *fifty* years, we see men in the highest professions first attain eminence; the capital which has been expended in their education returns rapidly; their established character gives them the confidence of their fellow men; experience and practice enable them to deal as proficients with the great interests and questions of the world. They see their children enter life. The edifices, of which the foundations were laid before, spring up around them. The prudent, tried, skilful, inventive man, now often becomes, in England, a master, and controls establishments in which he was once the clerk, the workman, the apprentice boy. It may be justly called the intellectual age,—the legislative, the judicial age. The statesman speaks, and his voice reverberates over an attentive nation. But the passions and labours of life wear deep furrows; the health of the workman is shaken in great cities, and he falls before their pestilences; the heart and the brain are sometimes overwrought; diseases acquire force, and the man easily falls their victim."

Positive laws in different countries have adopted other ages of man as the time at which different rights shall belong to him. The Roman could acquire no property which was not immediately lost in the property of the father during his life. Neither age, nor rank, nor the consular office, nor the honours of a triumph, could exempt the most illustrious citizen from the bonds of filial subjection. In our own law the age of twenty-one has been adopted as the age at which binding contracts may be made, and at which the rights of property may be asserted. The constitution has also adopted that age as one of the tests, but not a sole test, of capacity for the franchise.

It is obvious, that if what is called "manhood" suffrage

were adopted as a qualification,—"the good of the citizens at large being,"—according to the most uncompromising asserters of right,—"the proper end of civil government, whatever its form,—whatever its history or traditional origin,"[1] the question of the age to be adopted, must be determined by considerations of prudence and convenience. If there could be any natural solution of the question of right attaching more forcibly at one time than at another, it would be that which the Roman law and the patriarchal system exhibited, and which reserves to the parent that power over the interests of all his descendants, which nature has conferred, until nature herself deposes him. "Without fear though not without danger of abuse, the Roman legislators reposed an unbounded confidence in the sentiments of paternal love; and the oppression was tempered by the assurance, that each generation must succeed in its turn to the awful dignity of parent and master."[2]

Another test or condition has also been introduced amongst us,—the possession of certain property, as a freehold, or a certain social position, as that of paying rates or taxes, or the occupation of a tenement of a certain value. In the classification of citizens,[3] Montesquieu observed, "that the great legislators of antiquity made the greatest display of their powers, and even soared above themselves."[4] These, being questions of capacity, must obviously be determined by the condition of society and the state of education. It will probably be the business of our legislators to select, amid the examples before them, that which is the test or qualification best suited to our country, our age, and our social condition. In considering the form which it should assume, there are certain principles of which it is important not to lose sight.

[1] *Westminster Review*, vol. x., p. 195, N. S.
[2] *Gibbon, Decline and Fall*, vol. vi., p. 91. 8vo. ed. 1809.
[3] *Reflections*, &c., p. 272.
[4] And see *Grote's History of Greece*, vol. iii., pp. 155—159.

The test of capacity should be one which will exclude no man of ordinary industry and skill in his calling, and ordinary prudence and self-denial in his conduct. It cannot be necessary that the suffrage should be given to every youth as soon as he is out of his apprenticeship:—it is not necessary that it should be given, without regard to property, or to position, as the head of a family, or to participation in the burdens of citizenship, at least to one in early manhood, whilst the character is in process of formation, and the pleasures and anticipations of life exercise a strong influence on his conduct, and divert him from more serious thought on subjects not directly affecting his own career. He does not at that time of life require it from any regard to liberty or security, for the possession of the franchise by his seniors of the same class, having similar interests for themselves and their children, is a sufficient guard, and every day brings him nearer to the time when he may himself attain it. The qualification, however, should be accessible to every man when he acquires a home, and settles to the fixed occupation for which the preparatory course of his earlier years has fitted him. The Reform Bill, for this branch of the test, adopted that of the occupation of a house of the value of £10 a-year. It is scarcely possible in the larger towns that a dwelling, affording anything like comfort or decency for a family, can be obtained at a rent of less than four shillings a-week; and as a general rule no artizan could be regarded as a prudent man, who should incur the charge of a family until he could afford from his wages to pay that amount of rent. If, then, the capacity of an elector may be tried by the prudence of his conduct in matters relating to himself,—the Reform Bill, as to the more populous cities and towns, certainly does not appear to have erred by insisting on too high or exclusive a test.

Another condition of any test of capacity should be its universality. It should be applied equally to all classes and conditions, without regard to employment or situation. If

certain boundaries are fixed, and persons beyond or without such boundaries are placed under a different law, it may operate as a perpetual exclusion as to such persons. It may be impossible for a man to change the place in which his business and connections have formed themselves, and it may therefore be a mockery to tell him, that if he would take any interest in the political condition of his country, he must go elsewhere. The only difference in point of situation should be that which is created by the relative value of property, so that the standard might be substantially as well as nominally equal.

A third condition of the test should be, that it is of easy and ready application to large numbers of persons. The practicability of universal application necessarily causes the test to be of a rude and general character; but one which assumes the possession of the fit qualifications of an elector from his possession of their fruits, is not ill adapted to supply the place of that more accurate and refined examination to which it is impossible to resort.[1]

In these qualities, its general applicability and its universality, the pecuniary standard adopted by the Reform Act seems to afford no unreasonable criterion, and certainly to erect no impassable barrier.

Two modifications in the electoral law with reference to the amount of £10, adopted by the Reform Bill, are perhaps needed. The first relates to the substantial inequality of the sum, when compared with rent in different places. The tenement of £10 a year in one part of the country is a dwelling containing all the appliances of comfort, and even of grace; and in another situation is but a miserable abode of one or two rooms. The societies who have laboured in one of the greatest fields of philanthropy amongst us,—that of providing

[1] On the educational tests which may be applied, see Chapter VIII., on the "Extension of the Suffrage," in Mr. Mill's *Considerations on Representative Government*.

better dwellings for the poorer inhabitants of our populous cities, find that they cannot make their undertakings succeed if they let their smallest apartments for families at less than four, six, or even seven shillings a week. If the standard of valuation were, therefore, to be made really equal, having regard to the inference it affords of the capacity of the inhabitant, it would be necessary to vary the sum according to the valuation. It might be determined by the density of the population, which affords a tolerably accurate measure of the value of immovable property. The difference in density of population in 624 registration districts of England and Wales, according to the census of 1851, varied in the square mile to the extent of 185,751 in East London, and of 18 in Bellingham, in the county of Northumberland. A law which should fix the qualification at £10 for places within a district in which the population exceeds 20,000 to the square mile, £9 where it exceeds 10,000 to the square mile, £8 where it exceeds 5,000, £7 where it exceeds 1,000, and £6 in all places where the density of population is less than 1,000 to the square mile, or some other scale founded upon similar data, operating from census to census, would be a more just and equal rule, having regard to capacity,—its only real object,—than any uniform sum applied to the entire kingdom can possibly be.

The other modification of the law relates to the rating. It has been the rule in all systems of taxation, local or general, to regard the convenience of collection, rather than the welfare of the people subject to the burden. The system of general and local rating has been an impediment to the improvement of the dwellings of the poorer classes. There would be no practical difficulty in apportioning the rates on every house occupied in large cities by different families, so as to place the name of every distinct tenant of a holding of the value of £10 a-year or upwards, on the rate-book, and the register. The whole subject of rating should be made a matter of inquiry

and settlement, not only with a view to the question of the suffrage, but also to other important social considerations.[1]

In some discussions on the suffrage, it has been thought a sufficient objection against the adoption of the "ten-pound" qualification, to inquire why, if the tenant of a £10 house should be admitted, one of £9 ought not to be considered as qualified,—and then why not one of £8, and so on. The argument is a very simple or a very sophistical one. The standard is adopted, as furnishing some evidence of the person having, by his own industry or ability, attained a certain point in the social condition, and, therefore, of the possession of capacity sufficient for the duty which is intrusted to him. Industry, prudence, and skill will ordinarily produce such results,—and the results may not therefore be improperly accepted, by a system which invites the general co-operation,—as presumptive evidence of the skill, the prudence, or the industry. There is nothing exclusive in such a rule when the standard is so low that it is within the reach of every well-conducted man, who is not a victim of some extraordinary misfortune, forming an exception to the general lot that cannot be provided for in a subject having so extensive a bearing as the suffrage. The process of reasoning on which the rule is founded, is analogous to what constantly takes place in every judicial proceeding, in giving weight to evidence. We try the credibility of testimony by some facts perfectly extraneous to the testimony itself,—by the character of the witness and his antecedents, and by other tests, which are but indirect and inferential.

There may be very small difference between the capacity of the occupier of the £10 house and him of the £9; but this is a pleonasm in the argument. The true contention of those who adopt it should be, that there ought to be no test whatever,—or that there is some better and more practical

[1] See the note on the present registration and its needful improvement, p. 175, *supra*.

test than a pecuniary one. If there is to be a test, and it be found in the position which a man has earned for himself amongst his fellow men,—the objection is a cavil, and not an argument. It might be applied to the entire progress of the natural world. All nature is progressive. Why should there be greater maturity of body or intellect at the age of twenty than at nineteen, or at nineteen than at eighteen, and so downwards to infancy? If the child at once attained physical and mental ripeness, infinite labour and difficulty might be saved to mankind; but man has not been so created.

One alternative which has been sometimes proposed, and even resorted to, where the numbers to be admitted to the suffrage are large, and there are great inequalities of position, is that of indirect election, or the formation of bodies of electors, who, when chosen, are to elect the representative. This system, whether in great or small institutions, is almost in every case ineffectual for any useful purpose. There is no object which would not be better fulfilled by a direct choice. The electoral college of the United States, chosen for the purpose of appointing the President, is a remarkable example of the entire failure of such a preliminary election to effect that which its authors propose to themselves. The object was to form a conclave of the wisest and most unbiassed of the American citizens,—separated from all the other political bodies in the state and not connected with any party,—having only one cause of existence, and one object, that of electing as President the man in whose hands the vast interests and powers of the republic can be most safely deposited. Such an unbounded confidence the American people have not reposed in any college of men. The spirit of the institution is wholly disregarded in the literal execution of its office. The electors thus chosen are the mere machines of party. The effect of the interposition of intermediate electors will be either to produce such a result, or, if not, to destroy all interest in the election on the part of the primary voters.

"Or, ce qu'on cherche, c'est le bon député. La capacité supérieure en appelant à la reconnaître toutes les capacités qui, bien qu'inférieures, sont en rapport naturel avec elle. Si au contraire vous commencez par faire élire les électeurs, qu'arrive-t-il?—vous avez à accomplir une opération analogue à la précédente; mais le point de départ est changé, la condition générale est abaissée. Vous prenez pour base la capacité de l'électeur, c'est-à-dire, une capacité inférieure à celle qu'en définitive vous voulez obtenir; et vous vous adressez forcément à des capacités encore inférieures, hors d'état de vous conduire, même sous cette forme, au resultat plus élevé auquel vous aspirez; car la capacité de l'électeur n'étant que celle de reconnaître le bon député, il faudrait être en état de comprendre celle-ci pour comprendre celle-là, ce qui n'arrive point.

"L'élection indirecte, considérée en elle-même, déroge donc au principe primitif comme au dernier but du gouvernement représentatif, et abaisse sa nature.

"L'élection indirecte dérive de la souveraineté du nombre et du suffrage universel; dans l'impossibilité de faire passer ces deux principes dans la pratique, on s'est efforcé d'en retenir quelque ombre. On a voilé le principe du gouvernement représentatif, abaissé sa nature et énervé le droit d'élection pour demeurer, en apparence, conséquent à une erreur. Qui ne voit en effet qu'un tel système de l'élection directe lui conserve seul sa réalité et son énergie? *Toute action dont le résultat est éloigné et incertain inspire peu d'intérêt;* et les mêmes hommes qui concourent avec beaucoup de discernement et de vivacité au choix de leurs officiers municipaux donneront aveuglément et froidement leur suffrage à des électeurs futurs que leur pensée ne suit point dans un avenir où ils interviennent si peu. Ce prétendu hommage à des volontés trop peu éclairées, pour qu'on leur fasse, dans le choix des députés, une part plus efficace, n'est au fond qu'une misérable charlatanerie, une adulation mensongère; et sous une prétendue extension des droits politiques, se cachent la restriction,

la mutilation, l'affaiblissement de ces mêmes droits dans la sphère où ils existent réellement, et où ils s'exerceraient dans toute leur plénitude, avec tout leur effet."[1]

The independence of the representative body thus chosen, of the real constituent body, the people, is thus set forth by Mr. Burke:—"There is no way to make a connection between the original constituent and the representative, but by the circuitous means which may lead the candidate to apply in the first instance to the primary electors, in order that, by their authoritative instructions (and something more perhaps), these primary electors may force the succeeding bodies of electors to make a choice agreeable to their wishes. But this would plainly subvert the whole scheme. It would be to plunge them back into that tumult and confusion of popular election, which, by their interposed gradation-elections, they mean to avoid, and at length to risk the whole fortune of the State with those who have the least knowledge of it, and the least interest in it. This is a perpetual dilemma, into which they are thrown by the vicious, weak, and contradictory principles they have chosen. Unless the people break up and level this gradation, it is plain that they do not at all substantially elect to the assembly; indeed, they elect as little in appearance as reality.

"What is it we all seek for in an election? To answer its real purposes, you must first possess the means of knowing the fitness of your man, and then you must retain some hold upon him by personal obligation or dependence. For what end are these primary electors complimented, or rather mocked, with a choice? They can never know anything of the qualities of him that is to serve them, nor has he any obligation whatsoever to them. *Of all the powers unfit to be delegated by those who have any real means of judging, that most peculiarly unfit is what relates to a personal choice.* In case of abuse, the body of primary electors never can call the

[1] *Gouv. Rep.*, vol. ii., p. 262.

representative to an account for his conduct. He is too far removed from them in the chain of representation."

"As, in the end, all the members of this elective constitution are equally fugitive, they may be no longer the same persons who had chosen him, to whom he is to be responsible when he seeks for a renewal of his trust. To call all the secondary electors to account is ridiculous, impracticable, and unjust; they may themselves have been deceived in their choice, as the third set of electors may be in theirs.' In your elections responsibility cannot exist." [1]

The practical and vigorous mind of Major Cartwright rejected a system in which he saw merely an ingenious refinement, destroying all the force and value of the principle of representation. Writing of the then Spanish Cortes, he observes, that, from the successive strainings, "there can be nothing more likely than that in the end the representative chosen by the very few who have the final straining may be one whom a great majority of the collective body would not have elected. This erroneous practice was recommended by David Williams to the French at the time of their revolution. It had before been recommended by Hume." [2]

[1] *Reflections*, &c., pp. 277–279.

[2] *Life and Correspondence of Major Cartwright*, vol. ii., p. 227. Mr. Mill, in his *Considerations on Representative Government* (Chap. IX., "Should there be two stages of election"), has concluded that indirect election has many disadvantages peculiar to itself, while it has no benefit which is not attainable by direct election. Lord Grey is not satisfied with the argument, and compares the case of a poor man [why not a rich man?] one of 10,000 voters for a large town, with the same man if he were one of twenty friends, empowered to appoint a deputy to vote for them in a constituency thus reduced to 500,—when he thinks that the vote would be more considered and valued by the voter. (*Parliamentary Government*, pp. 257-263, 2nd ed.) It is true that our present method of dealing with such large constituencies must be felt by every thoughtful person as a mockery of representation. I pass by what might be said of this method of diminishing the number of the rich voters; but I confess I should deprecate most strongly its adoption in the case of the poorer electors. It would, I think, be the most downward and fatal step that could be taken in the progress of representative institutions. One cannot but imagine the

The suffrage should be regarded as a right of value, and one not thrown heedlessly to any. It should be felt that in conferring it the State adopts all the tests of quality and of worth that are consistent with placing the suffrage on a broad and comprehensive basis. The right of taking part in the social government is so sacred, that the State may be justified in adopting the precept,—"cast ye not your pearls before swine." Like other rights of value, it would be not too much to require some proof of appreciation from every man who

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petty intrigues, favouritism, and jealousies of the workshop, the factory, and the club-room, which such a system would inaugurate. The more cunning workmen, or foremen, would soon find that a twenty-vote power was of some value in securing them a certain notice and attention, and would learn how it might be turned to account. They would no doubt be successful in overcoming the inertia or indifference of their fellow-labourers, sufficiently to secure their own nomination; but when a workman is canvassed by three or four of his companions for the same petty advantage, the scale is not likely to be turned by arguments the best fitted to enlighten the understanding or improve the character. Nor would the small eminence thus gained by the deputed voter be generally salutary to himself. He will often have acquired it by some of those persuasive arts which have no elevating tendency, while he will be apt to form an exaggerated estimate of the personal importance conferred by his exceptional privilege. It is the common habit of most persons to magnify any small measure of distinction which gratifies self-importance. Circumstances can hardly be conceived more calculated to create a disposition unfavourable to disinterested action than the interposition of such intermediate depositories of political power. They would cut off the primary electors from all direct and necessary contact and relation with public men of superior intelligence and character,—narrow instead of enlarging the field from which the voter must seek concurrent sympathies in opinion,—narrow also his direct interest and therefore his scope of thought on public subjects, which would be one of the main educational advantages of the franchise. I believe that indirect voting would seriously detract from the good results of representative government, and multiply some of its worst evils. If there be any portion of the people qualified to take a part in political affairs, to whom the state cannot intrust more than the twentieth of a vote, let us, for the sake of straightforwardness and honesty, hope that this fraction of suffrage may be given at once and directly to the elector, and not through the mediation of another. (Note to 3rd ed.)

would possess it. The Registration Act[1] abolished the small payment of a shilling imposed by the Reform Act. Under such a system of election as has prevailed, it is not surprising that half the voters should be indifferent as to being placed on the register, and refuse to pay the fee, as half of them are indifferent as to voting when they are placed upon it. But, under a system which gives every man the uncontrolled power of selecting his representative, a vote would be regarded in an entirely different light, and it would not be considered a hardship to pay a shilling annually on its registration. It is found, by universal experience, that things, however valuable in themselves, are less regarded, when they are obtained without any labour or cost, than when they have been won by some exertion or some sacrifice.

One of the most valuable improvements adopted by the Reform Bill was that which established a register of voters. The more the population increases, the more important will the register become. Without it, parliamentary elections would become a scene of riot and confusion. "When, after the social war, all the burghers of Italy were admitted free citizens of Rome, and each had a vote in the public assemblies, it became impossible to distinguish the spurious from the real voter, and from that time all elections and popular deliberations grew tumultuous and disorderly, which paved the way for Marius and Sylla, Pompey and Cæsar, to trample on the liberties of their country, and at last to dissolve the commonwealth."[2] The cost of registration in England and Wales amounts annually to a sum of about £102,000,[3] and notwithstanding the unpaid services of a great number of overseers

[1] 6 Vict., c. 18, s. 58.

[2] *Black. Com.*, vol. i., p. 159. At a meeting of the Ballot Society, Mr. Pliny Miles, of New York, stated that one of the principal causes of electoral corruption in that city was the want of any register of electors.—*Star*, Dec. 31, 1858. See also the note on the register, p. 175, *supra*.

[3] Mr. Albert James's Pamplet, p. 57, cited pp. 175, n.

and other officers, the machinery is extremely imperfect. The chief improvements required seem to be—the employment of local and paid officers to collect the names of the electors annually in the parishes where they reside,—intercommunication to verify claims for registration between the places of residence and the situation of the property, for the purpose of proving that the right exists,—superintendence of the local officers by the registrars in London, Edinburgh, and Dublin, —a combination of the system of printing, by which putting the registers once into type may be sufficient,—a constantly sitting and itinerant tribunal for the examination of objections, affording opportunities for hearing every case at some time which may be convenient to the voter who is objected to, —and a public officer, as the registrar, whose duty it shall be, on the report of the local officer, to direct the expulsion of names if the persons indicated do not appear and justify their retention. If the payment of a shilling were restored, it might be made on the annual delivery to the elector of a ticket containing his name, address, and number on the register. Such a payment would go very far towards the expense of the registration, and of keeping the lists constantly accurate by the visitation of every house, and the annual withdrawal of the names of deceased persons.

It may deserve great consideration, having regard to the difficulty of examining such titles, whether votes arising from freehold rentcharges should not be dealt with as mortgages, and be abolished, as to all those which are created after a certain day,—and that all claimants to vote in respect of existing rentcharges should deposit copies of their title-deeds with the revising barristers, with an annual declaration that they are in actual receipt of the rentcharge, or in default that their names be expunged from the register.

The retention on our statute book, since the Reform Act, of the laws which disfranchise a large number of persons holding

offices in the public service[1] can only have happened from a remarkable inadvertence. The principle and cause of the exclusion was intelligible under the system of restricted electoral rights and close boroughs, but it is now utterly indefensible. It has probably done no little towards lowering some of the metropolitan constituencies—especially at the east, north, and south of London—by excluding an extensive body of respectable and intelligent householders. It would be an extraordinary condition of things, if, after establishing a competitive examination, and collecting a great number of the most able of its people in its service, the State should go on to deny them that franchise which it gives to classes far inferior to them in character, education, and talent. It is absurd to suppose that they would form a class of electors favourable to an extravagant expenditure of the public income. There would be few classes more interested in or anxious for general economy. It is where the resources of the household are properly husbanded, and not in the establishment of a spendthrift, that the servants chiefly look for the due remuneration of steady and honest service. No class of voters would be less inclined to act corruptly, for under the system which is here proposed, no class of voters would have stronger reasons for choosing the best men, and none would be more impotent for any purpose of mischief, even if they combined to choose the worst.[2]

[1] Excise, 5 W. & M., c. 20; Customs, 12 & 13 W. 3, c. 91; Post Office, 9 Anne, c. 10; Police, 3 W. 4, c. 19, &c.

[2] On this point I am compelled to take a view the very reverse of that adopted by Lord Grey, who recommends that, instead of removing the prohibition of persons engaged in the revenue from voting, that exclusion should be made to extend to all who are employed in the permanent *civil* service (*Parliamentary Government*, p. 235, 2nd ed.), and he alludes to the defeat of the government on the Civil Service Bill of 1857 by the skilfully-organised agitation of those interested in the measure. (Id., pp. 91, 92.) An electoral system which so balances the chances of a candidate as to place him in a condition in which he may be defeated by two or three votes being withdrawn from him and given to his adversary, is precisely suited to

An Act amending the representative system should, as far as possible, facilitate for every elector the exercise of the franchise which the constitution may give him. We encumber the business of elections with the difficulties which existed before the general use of letters. Every elector in the country may be required to attend at some place on the day of election to verify the fact of his existence, but to compel him to travel fifty or a hundred miles to give his vote is surely a remnant of barbarism. If he be residing at a distance from the place at which the poll for his constituency is taken, the elector may be permitted,—perhaps on payment of a small fee,—to deposit his voting paper, with proper evidence of his identity, with the registrar in London, Edinburgh or Dublin, according to the part of the United Kingdom in which his vote may be,—and the registrar may, by communication with the returning officer, or otherwise, effectually prevent any abuse arising from this convenience. The same may be done in the case of freehold votes for different counties. The elector may give all his votes at one polling place, the voting papers appertaining to the other constituencies being immediately transmitted to the registrar's office. In such cases, also, a small fee might be charged on each vote, which would more than reimburse the cost of the operation to the public.

All persons engaged in maritime employment, and therefore necessarily absent, may, by the same means,—depositing their voting papers with the registrars,—exercise their franchise. The same facility may be afforded to all civil, military,

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the exaction of petty pledges, and especially those by which he may hope to gain a few friends, and create no enemies. An abolition of the system which exposes candidates to such injurious influences is the true remedy. There can be no more certain proof of the existence of a great vice in any social institution than the fact that, in order to effect its object or secure its working, it requires that any class of persons of whom the society is composed shall be either physically, morally, or politically dwarfed.

and naval officers in the public service, absent from the country on their public duties. Nowhere could more intelligent and valuable electors be found than these classes would afford. There does not seem to be any reason why a like privilege should not be given to English subjects travelling in foreign countries, or residing there temporarily for mercantile or other causes. Such opportunities afforded to an elector of exercising his national rights would call forth at all times his interest in and affection for his country. Some modification of the suffrage might be made in order to give effect to the opportunities of voting thus afforded. They would be, of course, applicable to all freehold votes; and as to votes founded on qualifications which require residence, it might be made sufficient if any portion of the family of the elector had resided in the house giving the qualification; without rendering it necessary, in such cases, that he should himself have been resident within so short a preceding period as is at present necessary.

Lord Harrowby, in presenting a petition,[1] in 1852, on the subject of the representation, remarked that if it were purely internal, or even confined to national interests, we were "in danger of neglecting altogether those considerations which arise out of our colonial connections;" and the question of the propriety of establishing some connection between our national and colonial representation has been repeatedly discussed. The freehold suffrage might afford the means of keeping up this intercommunication and representation of interests, and sympathies which are even of more importance than interests. There would be no difficulty in the system, of which an outline has been here presented, of enabling any British subject holding a freehold in the United Kingdom, and residing in any of her colonies, territories, or dependencies, to transmit his voting paper, with evidence of his identity, to the registrars, and of thus exercising a right of suf-

[1] *Parl. Deb.*, 27th May, 1852.

frage in the mother country. The colonial legislatures would, there is little doubt, willingly create reciprocal rights, and thus the institutions of the mother country and the colonies —without interfering with the operation of each other—would be intimately blended. The inhabitant of the colony, as well as he of the mother country, would feel himself a subject and citizen of the same great empire, and the associations of the inhabitants of different hemispheres would be connected by a multitude of new ties, preserving an unity of feeling which has been hitherto rarely sustained after a few generations.[1] The rapidity of telegraphic communication would afford opportunities of action which were impossible in earlier times.

In all cases where a woman is *sui juris*, occupying a house or tenement, or possessed of a freehold, or is otherwise in a position which, in the case of a male, would amount to a qualification, there is no sound reason for excluding her from the parliamentary franchise. The exclusion is probably a remnant of the feudal law, and is not in harmony with the other civil institutions of the country. There would be great propriety in celebrating a reign which has been productive of so much moral benefit, by the abolition of an anomaly which is so entirely without any justifiable foundation.

With the exception of the abolition of the right of franchise in respect of rentcharges hereafter to be created, and a modification of the law as to residence, and the reduction of the amount of qualification according to the density of population—all the foregoing suggestions contemplate the right of suffrage continuing as it is. The only remaining observation relates to the introduction of a new franchise founded on

[1] Since the publication of this treatise, the nature and permanency of the connection between the mother country and her colonies, and their several duties and responsibilities, have been discussed both by statesmen and philosophers, nor is the discussion yet exhausted. The practicability and advantage of creating such personal and abiding ties as are above suggested would not be undeserving of consideration in that argument. (Note to 3rd ed.)

education. The more simple and practical form of such an extension would be that of giving to the members of all the universities of the three kingdoms, who have attained such an academical rank as may be deemed equal to that which now confers the franchise on the elder institutions, the like electoral privileges. If the same right of suffrage were given to the ministers of religion of every persuasion, where ordination or admission is preceded by a sufficient test of competency,—and to the legal and medical professions, and to other bodies of men associated in the pursuits of science, literature, and art, requiring suitable tests as a qualification for membership, —there is every reason to believe that such an extension of electoral power would meet with the approbation of the great majority of the educated classes of the kingdom. This subject has been so fully discussed in other publications, that it is not necessary to dwell upon it here.

The suffrage is a matter so distinct from electoral organisation, that the legislature should deal with the two things in separate Acts. Blending them together tends to confuse and embarrass the discussion of both, and is convenient only to those who would divert the public mind from true conclusions on the question of representation.

CHAPTER XIII.

REPRESENTATIVE GOVERNMENT IN MUNICIPALITIES.

All the more complex portion of this scheme of representation, which is caused by the necessity of collecting and appropriating the votes of persons residing at different extremities of the kingdom, disappears when it is applied to the local government of a particular city, town or parish, comprised in an area within limits accessible by personal communication. The mayor or other presiding officer would annually perform the duty which, with respect to parliamentary elections, would be the office of the registrar. He would publicly announce the names of the candidates, the day and place or places for voting, and the quota of votes necessary for every councillor or member of the body to be elected,—the quota being in this case the quotient of the number of registered electors divided by the number of the council to be chosen. Voting papers might be dispensed with, and the votes given *vivâ voce*, and entered in the tabular books.[1] These books being divided into columns, and the names of the candidates severally placed at the head of every column, the names of the

[1] Page 157.

voters may be written below,—every voter writing his own name if he can, or, if not, requiring it to be written for him by the poll-clerk, in the column under the name of the candidate for whom he votes. As soon as the quota of any candidate is completed, the book may be closed as to him, and publicity immediately given, by placards and otherwise, of the fact that he has been elected, and that no more votes will be received for him. The voters who remain unpolled will then necessarily distribute their votes amongst the other candidates, and thus by a simple and undisturbed exercise of the volition of every individual voter, the board or council will be gradually and deliberately chosen, and no individual voter would necessarily be without his especial representative.

If it were feared that the voters in any community would not generally feel sufficient interest in the election of their local authorities, to induce them to take a part in the election, and, by their votes, complete the several quotas; and that, owing to such neglect or omission, the number of members of the council or board would be insufficient for the business to be transacted, the difficulty might be provided for, by enabling the members chosen, after due notice had been given to the community at large,—if the number required should still fail to be completed, to fill up the body either from amongst the other candidates at the same election, or from the citizens at large. If the full number were actually necessary, and the electors should wilfully or negligently fail to complete it, they could not complain of such a mode of supplying the seats which they had left unfilled.

If the quotas of several candidates were insufficient at the end of the first day's poll, notices of the state of the election might be published, and the electors invited to withdraw their names from the columns of the candidates having the least chance of success, and add them to the votes polled for others, and thus complete their quotas. It might be, after full

opportunity had been given for this process, that the elected members should fill up the vacancies, if any remained.

In the modern construction of local and parochial bodies,—as exhibited in the two principal examples,—the Municipal Corporation Act of 1835, and the Act for the Local Managemen of the Metropolis, in 1855, two chief objects, or rather two main dangers seem to have been contemplated. First, any sudden and mischievous change or reversal of the acts or proceedings of one body by their successors was sought to be averted,—and secondly, where the community, over the local affairs of which the elective body was to preside, is very extensive,—as in the metropolis and the environs, the annual inconvenience which was apprehended from an election by the whole body of ratepayers was avoided by vesting the choice in a few persons, by a mediate or indirect mode of election. It was with a view to the first of these objects, or to guard against the first danger, that the provisions were introduced which require one-third of the Town Councillors,[1] and of the members of the District[2] and Metropolitan Board of Works,[3] to go out of office annually. It was probably thought that if the entire body were dissolved, like the House of Commons, at one time, a change of political feeling in the locality might have the effect of preventing the re-election of any of them, and the public interests and business of the town might be suddenly placed in new hands, uninstructed,—perhaps regardless of, perhaps hostile to, the proceedings of their predecessors, and more desirous of proving their incompetency than of fairly executing their designs. Against this mischief, these provisions of the statutes are intended to guard. They have, as a precedent, the law which constitutes the Senate of the United States. The Senate is composed of two members from each State, elected by the legislatures of the States for

[1] 5 & 6 W. 4, c. 76, s. 31.

[2] 18 & 19 Vict., c. 120, s. 34.

[3] Id., s. 48.

the term of six years, and the whole number is divided into three classes, of which one goes out at the expiration of every two years. Borrowing, perhaps, from this form of constitution, the framers of the Municipal Corporation Act sought to insure some degree of stability in the conduct of the elective councils, by changing their members gradually, at yearly intervals, during the three years.

It is evident that the provision, prudent as it may be in the actual constitution of things, is only directed to meet an evil peculiar to a system which places the choice of the council or board solely in the hands of the majority. If a scheme had been considered on which every voter or ratepayer might be certain of being represented, the framers of the Municipal Corporation Act would have had no reason to fear that, however the numbers of the majority or the minority might vibrate, there would still be at all times more than sufficient voters whose opinions had not changed,—to re-elect such a number of the old members as would prevent, even more effectually than a triennial vacating of office can do, the evils of any sudden reversal of system or any instability of purpose.

The object of avoiding annual popular elections throughout the metropolis, or perhaps the supposed difficulty of exciting a sufficient general interest in local matters to make such elections effectual, was met by the introduction for the first time in the political institutions of this kingdom,[1] of a system of mediate or double election. The Metropolitan Act adopts the already existing institution of the vestry; and prescribes the mode of election of vestrymen,[2] which is to be by ballot, every ratepayer voting, if he thinks proper, for as many persons as are to be chosen.[3] It then directs, that, not the ratepayers, but the *vestry*, shall elect the members of the district

[1] *Guizot, Gouv. Rep.*, vol. ii., p. 254.

[2] 18 & 19 Vict., c. 120, ss. 13–19. [3] S. 17.

boards of works,[1] and (with one or two exceptions) the members of the metropolitan board.[2] With regard to the number of members by which the several parishes are to be represented in the district boards, the Act gives to the metropolitan board the power of adopting a scale not dissimilar in principle from that which regulates the number of members for the several States in the House of Representatives in America,—a scale in the case of the district boards, to be adjusted by the number of inhabited houses found to exist in each parish at the decennial census.[3] The vice in the construction of those boards is the indirect election of the members, who are chosen by the vestry and not by the ratepayers. The adoption of such a system in this case has not even the apology of being founded on a supposition of the inferior capacity of the primary electors, and, therefore, of the benefit of vesting the choice of the higher board in more intelligent persons. It seems to have been made indirect for the mere sake of the circuity, and probably under the timid counsel of some who had doubts of representative institutions, and feared the adoption of any electoral organization which would enable the vast body of metropolitan householders to feel its magnitude and strength.

It is scarcely possible that a system so novel in this kingdom, so unsound in theory, and unsatisfactory in practice, can long continue to be employed in the local government of the metropolis. It is a subject, however, which it would seem proper to deal with as a part of a general measure for constituting the municipality of the City of London a body of that importance which becomes the condition of the first city in the world. Instead of frittering away the municipal constitution by a multitude of elections for detached and exceptional purposes, in many of which little interest is severally taken,—an incorporation of the whole metropolis under a

[1] S. 32. [2] S 45. [3] S. 33.

great council, chosen by a perfect representative organization, would invest every branch of its administration and its offices and dignities with a weight and value calculated to make them just objects of ambition for its most distinguished citizens. There are no obstacles in the way of such an union and incorporation which a powerful government might not overcome,—nor probably any which all the more enlightened citizens would not rejoice at having overcome. It has been conceived by many of the inhabitants of the metropolis, that the difficulties in the way of placing the entire city under one municipal constitution are rather found in objections arising with the imperial government than with the people. It is thought, whether correctly or not, that the successive governments have entertained a jealousy of a body, so powerful as the municipal council of the metropolis would be, if it concentrated the suffrage of three millions of people, surrounding the offices of the state. In such a constitution the dignity of the mayor of the city would be restored to its ancient, or more than its ancient splendour. History does not record the existence of any provincial or municipal officer having jurisdiction over a community of equal extent, wealth, or intelligence. It might be very possible, therefore, that governments, feeble in parliamentary force, would shrink from creating at their doors a rival power of such magnitude. If the time should come, in which these fears cease to operate,—if a government should exist not tottering on the crutches of party, but strong in the sympathies and affections of the people, and of a parliament their faithful exponent, it may yet be that the City of London, —instead of being confined within the narrow boundaries, and decked with the antique trappings of its early and comparatively infantile existence,—will assume the position which it has attained amongst cities, and open its arms to embrace the vast population which has gathered around its ancient walls. It is not by a servile crawling in the paths of our ancestors,

but by following the spirit of their institutions, that we most fitly show our respect for antiquity.

It may be remarked that the scheme of representation which it is the object of this treatise to develop, affords the means of giving a direct, instead of an indirect, weight to property, and that in the precise rates of its magnitude; reserving at the same time an equal or other proportionate influence to persons. The author may be permitted to conclude these pages by quoting from another publication his ideal of a municipal council for London.[1]

"A Metropolitan Government should be created by the expansion and true aggrandizement of the great Corporation of London. The Royal Commission justly remark on 'the antiquity, extent, and importance of its privileges, the long series of its charters, the large amount of its revenues, its metropolitan position, and its historical associations.' In municipal dignity, it is entitled to a rank equivalent to that which London now holds among the cities of the world and the capitals of the greater empires. Its constitution and policy should be worthy of a nation which boasts of the maturity and excellence of its political institutions. Foremost in wealth and intelligence, its government should be a model not only for all provincial towns, but for other nations, and especially for the populous cities which are growing up in our colonies. No community is richer, none is in fact so rich, in all the elements from which such a government could be created. Almost a multitude of organized bodies—the ancient city companies, and innumerable modern associations for public objects—would take their places in such a system. Every material is, in fact, ready to the hand of the statesman who shall apply himself to the work.

"I suppose, then, the government of the entire district

[1] Ideal of a Local Government for the Metropolis, by Thomas Hare. *McMillan's Magazine*, April, 1863, p. 445.

within the metropolitan area to be vested in the Lord Mayor and Council—the Council composed of a hundred and fifty members, of whom seventy-five shall be chosen by the owners of property, and seventy-five by the inhabitants and occupiers; that the election of the Council be so conducted, that the representation be real and actual, and not merely nominal or virtual; that each proprietor and each inhabitant may be certain that, at least, one member has been chosen by himself, and not by any majority or number of other persons for him, and that such member is the exponent of his opinions and the guardian of his interests. That this degree of accuracy in representation may be secured, has been shown elsewhere in a scheme, which has now, for several years, undergone and been tested by the severest ordeals of criticism and examination. It is not necessary, therefore, to occupy more of this paper with its details than to explain its adaptation to the proprietary class. I suppose the vote of every owner of property, whether corporate or sole, in the metropolitan area, to have a weight exactly equivalent to the sum at which he is rated for the property-tax under Schedule A, and, in the case of crown and other property not so rated, then according to an estimate of value on the same scale. If proprietors to the extent of the present rated annual value of about fifteen millions should vote, the amount, being divided by 75, would render every proprietary member a direct representative of property of the value of £200,000 a year. Thus there would be no proprietors, from the Duke of Bedford to the owner of the smallest cottage, from the Bank of England to the latest trading company, from the greatest city-guild to the smallest co-operative or other association possessed of a tenement, that would not be able to communicate directly to the particular members representing their estates any matter in which they require attention or assistance.

"The election by the occupiers of their seventy-five repre-

sentatives may be on the broadest existing scale of suffrage—the personal rights of the livery being preserved. The quotient of voters, divided by the 75, would be the maximum quota required for the return of each member. Here also scope is given to the energy of every voluntary and other association for public purposes, for placing in the governing body representatives who may constantly attend to the special objects of amelioration for which they are united.[1]

"The great proprietors, with their stewards and professional advisers, the ancient city companies, with their staffs of experienced officers, the various banking, mercantile, and trading bodies, would form so many centres, from which the ablest candidates would be put in nomination for the Metropolitan Council. There is no interest and no intelligence which would not be invited and induced, by such a method of representation, to promote the election of the best exponent of its views and guardian of its rights.

"There is no reason why the annual choice of a Lord Mayor should not be so open that it may be regarded as an honour even by the most illustrious. It might be the ambition of every successive municipal prætor, that his year of office should inaugurate, and remain as the epoch or record of, some city improvement. Tried men of practical talent and experience, like the Chairman of the Board of Works, might permanently fill the office of Vice-President of the Council; and in that body we might well hope to see all the most able members of the present Common Council, as well as of the Metropolitan Board. The Council would be numerous enough to form special committees for every locality, according to the situation of the property which they mainly represent, as well as to the peculiar personal knowledge they derive from residence or occupation. In addition to such local

[1] See further on this subject, *Usque ad Cœlum*, by Thomas Hare, p. 39. Sampson Low, Son & Co., 1862.

committees, there would be special committees on general subjects;—one committee, for example, addressing its labours especially to the great subject already mentioned, the multiplication of suitable dwellings for the labouring and poorer classes; watching every demolition made for roadway or other public purposes, and acquiring such new sites as become open or available for habitations; imposing such terms as may be found necessary, from time to time, to secure the adaptation of a due proportion of the new edifices to the required purpose, and for facilitating the acquisition and tenure of convenient dwellings by small proprietors, co-operative associations, or building societies. The committee would keep the same objects constantly in view wherever new streets were made or opened, by assisting and encouraging plans affording the greatest amount of accommodation. Another committee might address itself to education, endeavouring to insure to every metropolitan district facilities for establishing, within a reasonable distance of its inhabitants, public libraries and institutions for instruction. The several representatives of ecclesiastical and religious bodies might, by a better organization, employ the means at their disposal with far greater efficiency. Some committees might direct their attention to sanitary arrangements—measures of economy and police—to the convenient distribution of the various curative establishments, and to the statutory relief of destitution. One, perhaps, to subjects of art and to the embellishment of the capital. In the labours of the Metropolitan Council, scope might be found for the employment of all the varied talents and genius of a large body of public-spirited men, in which the acquirements of science, of study, and of travel, and the knowledge and experience of practical life, may be enlisted and employed in promoting the public welfare. The Council would be an admirable school of preparation for the business of the Imperial Legislature.

"The increase of population, and especially its density in large towns, require that laws and regulations should be framed for giving to the voluntary co-operation of every class the vigour, completeness, and continuity, which in an earlier stage of society would depend upon individual will or effort. I regard the creation of a proprietary body amongst the working classes of London and our other great cities as one of the greatest steps towards their general well-being; and the growth of such a body may be promoted by the special adaptation of laws of tenure, transfer, and inheritance, applicable to town property voluntarily brought by individuals and societies under their operation. Amongst its subordinate institutions, each municipality should have its local estate office or registry of title, where separate tenements or chambers might be transferred at the smallest possible expense, and in which bye-laws or other regulations affecting the property of co-operative or building societies may be locally registered and receive validity."

A prospect of London and our other great cities, governed by Municipal Councils which, in the manner of their formation, shall everywhere evoke the highest intelligence and public spirit, and, possessing the public confidence, shall be powerful agents in all works of social amelioration; and the still larger prospect of the representative institutions of the kingdom aiding in the improvement of individual character, and in the elevation of the whole tone of popular life, may appear Utopian. "I believe," observes a living master of our language and of art, "the quiet admission which we are all of us so ready to make, that because things have been long wrong it is impossible they should ever be right, is one of the most fatal sources of misery and crime from which this world suffers. Cast the word Utopian out of your dictionary altogether. There is no need for it. Things are either possible or impossible—you can easily determine which in any given

state of human science. If the thing is impossible, you need not trouble yourself about it; if possible, try for it. The Utopianism is not our business,—the *work* is." I may conclude with the same counsel from the mouth of the philosophical statesman, so often cited in these pages,—Mr. Burke,—who, in his speech on economical reform, said,—"I know it is common for men to say that such and such things are perfectly right—very desirable, but that, unfortunately, they are not practicable. No, sir, no. Those things which are not practicable are not desirable. There is nothing in the world really beneficial that does not lie within the reach of an informed understanding and a well-directed pursuit. There is nothing that God has judged good for us that He has not given us the means to accomplish, both in the natural and the moral world. If we cry, like children, for the moon, like children we must cry on."

APPENDICES.

Appendix A.

Method proposed for the election of the Grand Council of the Canton of Geneva, extracted from the work *De la Représentation des Minorités*, par M. Morin (author of *Précis de l'Histoire Politique de la Suisse*). Genève, 1862.

Système électoral proportionnel simplifié.

"Art. 1er. La proportionnalité est admise comme base de l'élection au Grand Conseil."

"Art. 2. Les listes de candidats remises au bureau central, avant la distribution des bulletins, ont seules droit à la répartition proportionnelle des députés."

"Art. 3. Cette répartition s'opère de la manière suivante:

"*A.* Immédiatement après le dépouillement du scrutin, le bureau arrête, d'après le nombre des bulletins valables, celui des suffrages indispensables pour l'élection d'un représentant. Ce dernier nombre, déterminé par le chiffre des députés à élire dans chaque collége, est 1/44e des bulletins valables dans l'arrondissement de Genève; 1/38e dans celui de la Rive gauche; 1/14e dans celui de la Rive droite."

"*B.* L'importance des listes en concurrence est donnée par le chiffre des bulletins compactes qu'elles ont réunis, et l'ordre des noms dans ces listes est déterminé par le nombre des suffrages qu'ils ont obtenus, en tenant compte des bulletins égrenés ou panachés."

"*C.* Chacune des listes a droit à autant de députés qu'elle renferme de fois le nombre de voix nécessaire pour l'élection d'un représentant."

"*D.* Les noms portés sur plusieurs listes, ayant droit à la répartition, sont élus d'emblée. Le surplus leur est réparti proportionnellement à leur force, sans que la part revenant à d'autres groupes soit réduite ou augmentée par ce fait."

"*E.* Les fractions ne comptent pas."

"Art. 4. Si, après la répartition entre les listes du nombre de députés

auquel elles ont droit, il en reste à nommer, ceux-ci sont élus à la majorité relative, à condition toutefois qu'elle ne soit pas inférieure au minimum indispensable pour l'élection d'un député."

Observations sur le système simplifié.

L'exemple suivant, qui présente au premier coup d'œil une objection très-spécieuse au système proportionnel, contribuera à mettre en relief la facilité avec laquelle ce mécanisme résout les questions en apparence les plus embarrassantes.

Supposons 1000 bulletins valables et 20 députés à élire. Le minimum indispensable pour l'élection d'un député est $^{1000}/_{20}$, soit 50. Deux listes, A et B, sont en concurrence.

A réunit 400 bulletins compactes et, par le fait de suffrages égrenés, le nom qui est en tête a 700 voix.

B compte 600 bulletins pour 19 de ses candidats, mais le 20e n'en a que 300.

Comme suit :

Candidats.	Liste A.	Candidats.	Liste B.
1	700 suffrages.	1	600 suffrages.
2	400 „	2	600 „
3	400 „	3	600 „
4	400 „	4	600 „
5	400 „	5	600 „
6	400 „	6	600 „
7	400 „	7	600 „
8	400 „	8	600 „
9	400 „	9	600 „
10	400 „	10	600 „
11	400 „	11	600 „
12	400 „	12	600 „
13	400 „	13	600 „
14	400 „	14	600 „
15	400 „	15	600 „
16	400 „	16	600 „
17	400 „	17	600 „
18	400 „	18	600 „
19	400 „	19	600 „
20	400 „	20	300 „
	8,300		11,700

8,300+11,700 font 20,000 voix. Donc les 1000 électeurs ont voté. Les 400 de la liste A ont voté d'une manière compacte. Entre les votants de la liste B, 300 se sont séparés des autres, pour un seul nom, et ont porté leurs voix sur l'un des candidats de la liste A.

L'importance de celle-ci étant représentée par 400 bulletins compactes, celle de la liste B est réduite à 300, puisque 300 électeurs seulement l'ont portée sans y faire de changement.

D'après l'article 3, lettre C du système simplifié, le nombre de députés qui doit être attribué à la liste A est $^{400}/_{50}$, soit 8, et à la liste B $^{300}/_{50}$, soit 6. Donc la liste B, comptant 11,700 votes, aura moins de députés que la liste A, qui n'en réunit que 8,300. Il y a là une inconséquence, mais elle n'est qu'apparente.

D'abord les 300 électeurs qui ont abandonné un nom de la liste B, pour porter leurs voix sur un candidat de la liste A, ont eu probablement la précaution de remettre au bureau une liste modifiée d'après leurs sympathies. Cette 3me liste étant entrée en concurrence, elle a droit à la répartition. Celle-ci doit s'opérer comme suit :

1 nom commun à la liste A et à la 3me, élu d'emblée.
8 appartenant à la liste A.
11 communs à B et à la 3me liste, élus d'emblée.

Total 20

La scission entre les votants de la liste B a donc pour résultat d'écarter le candidat qui en était l'objet, mais il donne un député de plus à la liste A.

Dans le cas où les électeurs, abandonnant la liste B pour un candidat, négligeraient de remettre au bureau une 3me liste, voici ce qui se passerait :

La liste A aurait droit à 8 députés,
„ B „ „ 6 „

Les 6 noms qui auraient réuni le plus de voix, après les 14 élus, seraient nommés dans l'ordre de la majorité et pris dans la liste B qui compte le plus de suffrages.

A aurait donc 8 députés.
et B „ 12 „

Total 20

résultat un peu plus favorable à B et qui rétablirait la répartition entre les listes, comme si tous les noms de B comptaient 600 voix et tous ceux de A 400.

Le système proportionnel simplifié pourvoit donc, par l'addition de l'article 4, à l'objection soulevée dans l'exemple proposé.

Après avoir réparti entre les diverses opinions qui se sont fait représenter par des listes, le nombre de députés qui leur revient, le reste appartient évidemment aux électeurs indépendants, et la majorité peut seule décider entre eux. C'est ce motif qui nous a porté à introduire la disposition contenue dans l'article 4, au moyen de laquelle les intérêts des électeurs indépendants se trouvent complétement sauvegardés.—Pp. 25-29.

Appendix B.

Extract from *Methode bei jeder Art von Wahlen sowohl der Mehrheit als den Minderherten die ihrer Stärke entsprechende Zahl von Vertretern zu sichern.* Dargestellt von Dr. Gustav Burnitz und Dr. Georg Varrentrapp. Frankfurt a. M., 1863.

Wir nehmen an, es sei 1 Vertreter zu wählen und es stehen sich drei Parteien gegenüber, deren die eine über 1500, die zweite über 900, die dritte über 600 Stimmen gebietet. Hier ist der mit 1500 Stimmen bedachte Candidat der ersten Partei als der Höchstbestimmte, als der, welchem das gröszte Masz von Zustimmung zu Theil ward, der Gewählte und zwar der mit Recht Gewählte. Ist dann eine zweite Wahl vorzunehmen, so wird, bei geschlossenen Parteiverhältnissen und bei abermals 1500, 900 und 600 für die verschiedenen Parteicandidaten abgegebenen Stimmen, wiederum der Candidat der ersten, relativ stärksten Partei der Gewählte sein, und ebenso in ferneren Wahlgängen, wenn noch weitere Vertreter zu wählen sind. Ganz dasselbe Ergebnisz wird erzielt, wenn 3, 6, 10 oder mehr Vertreter in *einem* Wahlgange ernannt werden; es werden nur die Candidaten der stärksten Partei aus der Urne hervorgehen; die Minorität wird, gleichviel ob gröszer oder kleiner, stets und gänzlich unvertreten bleiben.

Es ereignet sich dies, weil man nur die abgegebene Stimmenzahl, nicht aber die Rangordnung, welche die Partei ihren verschiedenen Candidaten gibt, im Verhältnisz zur relativen Stärke der einzelnen Parteien beachtet. Je nachdem ein oder mehrere Vertreter zu wählen sind, gestaltet sich das Verhältnisz verschieden.

1. Bei jeder durch eine Anzahl von Personen vorzunehmenden Wahl eines oder mehrerer Vertreter findet bewuszt oder unbewuszt, auch innerhalb derselben Partei, eine Werthschätzung der zur Wahl Empfohlenen, sei es im Allgemeinen, sei es unter Berücksichtigung eines speciellen zu erreichenden Zweckes, statt. Diese Werthschätzung tritt bei der Wahl in zweierlei Weise zu Tage: *a*) durch die Zahl der dem einzelnen Bewerber zufallenden Stimmen; *b*) durch die Rangordnung, welche demselben Seitens seiner Wähler im Verhältnisz zu den anderen von derselben Partei aufgestellten Bewerbern zugewiesen wird; diese Rangordnung drückt das Masz des Werthes aus, welcher dem einen Candidaten vor den anderen derselben Partei zufällt, das Masz der Glücksaussicht, welches die Partei dem einen ihrer Candidaten vor den anderen zu gewähren wünscht.

Nur bei der Wahl eines einzigen Vertreters fallen beide Werthschätzungen zusammen in *einer* Wahlziffer.

2. Wo mehrere Vertreter zu wählen sind und mehrere Parteien von verschiedener Stärke sich gegenüber stehen, gilt es einerseits, die Stärke der einzelnen Parteien (also die Zahl der den einzelnen Bewerbern von ihnen zugewendeten Stimmen), andererseits den verschiedenen Werth, welchen die einzelnen Parteien ihren verschiedenen Candidaten beimessen, klar darzulegen und in einem richtigen Verhältnisz einander gegenüber zu stellen. Dies geschieht durch die Wahlziffer, welche sich ergibt, wenn man die absolute, einem Bewerber zugefallene *Stimmen*zahl durch die relative (d. h. durch die ihm auf den verschiedenen Stimmzetteln zu Theil gewordene) *Rang*zahl dividirt.

Wird dieses Gesetz zur Geltung gebracht, so wird die Mehrheit der Wähler jedesmal die entsprechende Mehrheit der Vertreter ernennen, aber auch der Minderheit wird die ihrer Stärke genau entsprechende Zahl von Vertretern zufallen.

Es möge dies aus etlichen Beispielen erhellen, welche die verschiedenen vorkommenden Parteiverhältnisse darstellen und an deren Spitze wir das bereits oben erwähnte Beispiel setzen. Drei Parteien mit je 1500, 900 und 600 Stimmen treten zur Wahlurne und es ergeben sich folgende Resultate:

	Bisherige Zählungsweise.			Wahlziffer nach Rangordnung.		
	Partei A.	Partei B.	Partei C.	Partei A.	Partei B.	Partei C.
1r B.	1500	900	600	$\frac{1500}{1}=1500$	$\frac{900}{1}=900$	$\frac{600}{1}=600$
2r „	1500	900	600	$\frac{1500}{2}=750$	$\frac{900}{2}=$	$\frac{600}{2}=300$
3r „	1500	900	600	$\frac{1500}{3}=500$	$\frac{900}{3}=300$	$\frac{600}{3}=200$
4r „	1500	900	600	$\frac{1500}{4}=375$	$\frac{900}{4}=225$	$\frac{600}{4}=150$
5r „	1500	900	600	$\frac{1500}{5}=300$	$\frac{900}{5}=180$	$\frac{600}{5}=120$
6r „	1500	900	600	$\frac{1500}{6}=250$	$\frac{900}{6}=150$	$\frac{600}{6}=100$
7r „	1500	900	600	$\frac{1500}{7}=214$	$\frac{900}{7}=128$	$\frac{600}{7}=85$
8r „	1500	900	600	$\frac{1500}{8}=187$	$\frac{900}{8}=112$	$\frac{600}{8}=75$
9r „	1500	900	600	$\frac{1500}{9}=166$	$\frac{900}{9}=100$	$\frac{600}{9}=66$
10r „	1500	900	600	$\frac{1500}{10}=150$	$\frac{900}{10}=90$	$\frac{600}{10}=60$
	u. s. w.			u. s. w.		

Es würden hiernach

bei der Wahl	nach der bisherigen Zählungsweise			nach der Wahlziffer			
	der Partei A.	der Partei B.	der Partei C.	der Partei A.	der Partei B.	der Partei C.	
von 6 Vertretern.	6	—	—	3	2	1	Vertreter.
„ 10 „	10	—	—	5	3	2	
„ 12 „	12	—	—	6	4	2	
„ 16 „	16	—	—	8	5	3	
„ 20 „	20	—	—	10	6	4	
„ 25 „	25	—	—	13	7	5	

zufallen, Schon für den zweiten Vertreter ergeben die 900 Stimmen, welche von der zweiten Partei ihrem ersten Candidaten gegeben wurden, eine höhere Wahlziffer, als die von der ersten Partei ihrem zweiten Candidaten gegebenen, d. h. 900 ist mehr als $\frac{1500}{2}$; ebenso ist 600 stärker als $\frac{1500}{3}$.

Stehen sich nur zwei Parteien gegenüber mit z. B. 60 und 38 Stimmen Stärke, so zeigt sich folgendes Verhältnisz nach den beiden Systemen:

Bisherige Zählungsweise.			Wahlziffer.	
	Partei A.	Partei B.	Partei A.	Partei B.
1r Vertreter	60	38	$\frac{60}{1}=60$	$\frac{38}{1}=38$
2r „	60	38	$\frac{60}{2}=30$	$\frac{38}{2}=19$
3r „	60	38	$\frac{60}{3}=20$	$\frac{38}{3}=12{\cdot}5$
4r „	60	38	$\frac{60}{4}=15$	$\frac{38}{4}=9{\cdot}5$
5r „	60	38	$\frac{60}{5}=12$	$\frac{38}{5}=7{\cdot}6$
6r „	60	38	$\frac{60}{6}=10$	$\frac{38}{6}=6{\cdot}3$
7r „	60	38	$\frac{60}{7}=8{\cdot}5$	$\frac{38}{7}=5{\cdot}4$
8r „	60	38	$\frac{60}{8}=7{\cdot}5$	$\frac{38}{8}=4{\cdot}7$
9r „	60	38	$\frac{60}{9}=6{\cdot}6$	$\frac{38}{9}=4{\cdot}2$
10r „	60	38	$\frac{60}{10}=6$	$\frac{38}{10}=3{\cdot}8$

Nach der ersten Stimmenzählung bleibt also die zweite Partei vollkommen unvertreten; nach dem System der Wahlzifferberechnung

erhält sie dagegen bei der Wahl von 3 Vertretern einen, bei 5 Vertretern 2 gegen 3, bei 8 Vertretern 3 gegen 5, bei 10 Vertretern 4 gegen 6, bei 13 Vertretern 5 gegen 8.—Pp. 5-8.

The above examples are followed by others showing the operation of the system if parties were more numerous, and also exhibiting the effect in the cases of specific elections referred to.

Appendix C.

A Method proposed for ascribing to every vote a weight, or value, for every candidate named, according to the order in which the name stands upon the voting-paper. It was subsequently abandoned, for the reasons mentioned in page 187. It will be understood by the following example, extracted from page 55 of "The Machinery of Representation," by Thomas Hare. Maxwell, Bell Yard, 1857. 2nd ed.

"The first table exhibits a supposed number of actual and possible votes for candidates A, B, and C (counting the first uncancelled votes as the first possible votes, the second as the second, and so on), and the second table contains their relative value. The actual and possible votes of C, as it will be seen, amount in the aggregate to less than those of B and A, and the name of C would, therefore, be first cancelled. Some of the votes for C would, perhaps, by the voting papers, be next given to A or B, and the computation would then be made again, and the lowest on the poll again struck off, until the process can be no longer continued, and effect is given to every vote, so far as the elector has enabled that to be done.

Candidates.	1st Votes.	2nd Possible Votes.	3rd Possible Votes.	4th Possible Votes.	5th Possible Votes.
A	1760	1527	1654	1364	844]
B	1620	1816	1022	1230	965
C	1786	1249	1452	726	483

A	B	C
1st —— 1760	1st —— 1620	1st —— 1786
2nd $\frac{1527}{2}$ = 763½	2nd $\frac{1816}{2}$ = 908	2nd $\frac{1249}{2}$ = 624½
3rd $\frac{1654}{3}$ = 551⅓	3rd $\frac{1022}{3}$ = 340⅔	3rd $\frac{1452}{3}$ = 484
4th $\frac{1364}{4}$ = 341	4th $\frac{1230}{4}$ = 307½	4th $\frac{726}{4}$ = 181½
5th $\frac{844}{5}$ = 168⅘	5th $\frac{965}{5}$ = 193	5th $\frac{483}{5}$ = 96⅗
$3584\frac{19}{30}$	$3369\frac{1}{8}$	$3172\frac{3}{5}$

Appendix D.

In the Report of Mr. Lytton, Her Majesty's Secretary of Legation at Copenhagen, on the Election of Representatives for the Rigsraad (Reports of Secretaries of Embassy, &c., No. 7, presented by command to both Houses of Parliament, 1864, Parl. Paper), an objection is stated to have been made to the Danish Electoral Law, that it affords no guarantee for the representation of majorities and minorities in just and adequate proportion, in proof of which the following problem had been triumphantly put forward. If, it was said, three members were to be elected by 600 voters, and there are five candidates, A, B, C, D, and E, for whom votes are given as follows:—

For A, B, D } 299 votes. For A, C, B } 200 votes. For A, C, E } 101 votes.

The quotient of the 600 votes, divided by 3, being 200, it follows that A, who has 299 votes, will be elected, and 99, the surplus, then appropriated to B, whose name stands next on all those papers. A's name being next cancelled on the 200 papers in which he is coupled with C and B, those 200 votes are then appropriated to C, whose name stands next on all those papers, and C, having attained the quota, is thereupon elected. Both the names of A and C, the elected members, are next cancelled on the 101 papers on which C and E appear, and those 101 votes are given to E, who is then elected under the 24th section of the Danish Electoral Law, as he would be under Clause XXV. of the law proposed in this treatise. It is objected that this result is unjust, because B, who was second in the

choice of 299 voters, and third in the choice of 200, is excluded, and E, who was only third in the choice of 101, is elected.

Mr. Lytton has shown by his own argument that the combination supposed is politically preposterous, and, by a calculation made by M. Andræ, abstractedly, having regard only to probabilities, next to impossible.

I am willing, however, to accept the problem as it is stated by the opponents of the system, and adopt the result, which I believe is perfectly reconcilable with the principle which is at the foundation of this method of voting, and also reconcilable with justice.

The object is to give the elector the means of voting for the candidate who most perfectly attains his ideal of what a legislator should be, but it does not contemplate giving him the choice of more than one. The simple operation of the principle is seen when it is applied to an election *viva voce*, without voting papers, as is suggested for municipal elections (pp. 282-3). A and C would there have polled quotas, and E the comparative majority. The primary purpose of giving the voter the opportunity of adding to his paper the second, third, or other names for one of whom his vote is to be taken on the contingency of the name at the head not requiring it, is not to add greater weight to his vote, but to prevent it from being thrown away or lost owing to a greater number of voters than is necessary placing the same popular candidate at the head of their papers. The purpose is, in fact, to prevent what would have happened in the case supposed, if provision had not been made for the contingency, for the result of the above disposition of the votes would then have been that A alone could have been elected. Keeping in view this main purpose, to which all other objects are secondary, and comparatively unimportant, it is immaterial in what order the votes are counted. I should have stated the problem thus,—600 votes are found to have been given for A, 200 of these only are appropriated to him. A further number of 200 votes are next appropriated either to C or to B, depending on the order in which the voting papers bearing A's name at the head have been liberated by his return, and which depends again, in Denmark, upon the order in which the votes issue from the urn, and in the system here proposed, on the localities or particular constituencies for which A happened to be a candidate, and which govern the rule of appropriation. (See Clauses XVIII., XIX., and XXIV.) In whatever order or manner the votes have been taken, there will remain a majority, or, as I have named it, a comparative majority, and a minority of 101, or 99. If B has succeeded in obtaining the quota of 200 in the process, C will have the majority of 101,—if C has succeeded in obtaining that quota, as in the case put by Mr. Lytton, B is in the unlucky predicament of having the votes of his friends exhausted in their successful efforts to elect A and C, and he is left with the minority of 99,—E being supported by 101 voters, who have given no vote to B. The first 200 voters, whose voting papers are appropriated to A, have no ground of complaint, for their votes have

been attended with entire success, namely, the return of their candidate to the representative assembly, with all the moral weight of the emphatic expression of esteem shown by the proffered votes of the whole constituency of 600. Still less have the second 200 voters, whose votes were appropriated to C, any reason to complain, for they also have not only elected a favourite candidate of their own, but, equally with the first 200, they are gratified by the triumphant success of A. The 99 voters for B have also the latter satisfaction, and if they have failed to return their next favourite candidate, it is simply because 101 are more than 99.

The complaint of injustice is no doubt made rather in the interest of the candidate than in that of the electors. Instead of a struggle for mastery in which 301 may overpower, set at defiance, and extinguish the voices of 299, this method of election promises that each 200 shall be free to choose the exponent of their opinions; but it does not promise that any vote, taken singly, shall aid in the return of more than one candidate. In the supposed Danish case, the candidate might certainly complain of the ill-fortune which had brought out of the urn the voting papers of his friends in an order so wonderfully adverse to his success that, according to the computation of M. Andræ, it would not happen in one election out of some millions. If such a case had occurred under the method proposed in this treatise, B's only ground of complaint would have been that A and C had offered themselves as candidates to constituencies in which they happened to be more popular than himself, and in which, unluckily for him, his only supporters also chiefly dwelt; and the votes of these constituencies having been appropriated to A and C, that appropriation had exhausted the votes which, but for their prior possession, would have come to him, B. The law of appropriation by locality, in fact, redresses any fortuitous injustice or hardship which a resort to chance or lot may occasion, for although the circumstances supposed are obstacles to the political success of B, as every interposition of a superior or more favoured competitor must be, yet it is no fair ground of complaint.

There is no doubt that if the system of valuation of votes, according to the position of the candidates on the voting papers were adopted, as in the Frankfort proposal, Appendix B, and as in Appendix C, pp. 209–302, that the result would be very different. The supposed poll would then stand thus:—

$$\text{A } \frac{600}{1} = 600$$

$$\text{B } \frac{299}{2} + \frac{200}{3} \doteq 216\tfrac{1}{6}$$

$$\text{C } \frac{200}{2} + \frac{101}{3} = 150\tfrac{1}{3}$$

$$\text{D } \frac{299}{3} = 99\tfrac{2}{3}$$

$$\text{E } \frac{101}{3} = 33\tfrac{2}{3}$$

It is certain, however, that such a method would open a door for party organisation and party action of a most formidable kind, by the means of settled and printed lists, giving an increased amount of influence to mere numbers acting together, which under the simpler system of regarding only the first, or first uncancelled name, and of appropriation according to localities, no party ticket could secure, but which, on the contrary, any such ticket would rather impair.

It will be interesting, however, to refer to the different result of this case, as it would be determined if the improved rule for obtaining the quota, examined in Appendix E, were applied. The last example there put (p. 307) shows that B would be returned with A and C, without any of the dangerous consequences of giving overwhelming power to numbers, which might be feared from the foregoing method of valuation.

APPENDIX E.

AMONG those,—Earl Russell, Mr. Andriæ, Mr. James Garth Marshall, Earl Grey, and others, who within the last ten years have sought a remedy for the defects in representative institutions which have made them the creatures of a number of dispersed majorities,—must be included the name of Mr. Droop, of Lincoln's Inn, and late Fellow of Trinity College, Cambridge. Mr. Droop, "on observing the rather peculiar phenomena of the general election in 1857, directed his attention to the problem how representatives might be elected who should best represent the whole constituency, and not merely the majority." Perceiving that I had introduced contingent voting, which was also a part of his scheme, he has kindly communicated to me his method of appropriation of every vote to the candidate for whom it is successively designed, and of arriving at a quota which should be exactly the number of votes that ought to be retained for each successful candidate in order to ensure his election. The accurate determination of this quota, Mr. Droop remarks, would require the solution of an algebraical equation of a high degree, but there is no difficulty in approximating to it to any required degree of accuracy. One step of this process may be adopted with great advantage. It is the result of an observation that the quota proposed to be adopted cannot be greater than the quotient produced by dividing the aggregate number of votes polled for the number of candidates to be elected, who stand highest on the poll, by such last-mentioned number. Thus, if there were 2,000 candidates, all polling more or less votes, of whom only 654 can be elected, it is not necessary to take as the dividend the whole number of votes polled by the 2,000, but it is sufficient to take the number of votes polled by the 654 who stand highest on the poll. The quotient thus obtained, which will be necessarily far smaller in number than that obtained by the process pre-

scribed in the text (Clause I., page 25), is termed the "first-trial" quota. The excess votes of the candidates having more than the quota will then be reapportioned among the successive names, and a dividend composed of the numbers attributed to the [654] highest again divided, and a "second-trial" quota obtained, and the same process of appropriating the excess votes, and again computing the successive quotas, repeated, until the uniform quota can be no further reduced. This is explained in the following example:—Take the case of 7 candidates, of whom 5 are to be elected by 200 electors. A receives 37 first votes, B 14, C 31, D 45, E 24, F 19, G 30. To obtain the first-trial quota, the 5 highest, which are D 45, A 37, C 31, G 30, and E 24, are added together, and the result, 167, divided by 5 = 33, which is the first-trial quota. As D's number therefore exceeds the quota by 12 (45—33) these 12 votes are then distributed to the candidates whose names follow his on the voting papers. C is supposed to stand next on 3 of the papers, E on 6, G on 3; these votes are added to those already given to those candidates, and if A's 4 surplus votes (37—33) being set free belong to B, and C's last vote (34—33) also to B, the 5 highest will now be found to be, D 33, A 33, C 33, G 33, E 30: these numbers must again be added together, and the result, 162, divided by 5 = 32, which is the second-trial quota. The same process must now be repeated, D's surplus vote (33—32) given to G, whose name stands next on the voting paper, A's surplus vote to B, C's to B, G's two last votes (one received from D) to F, the 5 highest are now, D 32, A 32, C 32, G 32, E 30, added together = 158 ÷ 5 = 31, which is the third-trial quota. D's surplus vote must now be set free, and E's name following on the voting paper, is given to E, A's to B, C's to B, G's to E, which gives E one surplus vote,—supposing this vote when set free to belong to F, we have now, D 31, A 31, C 31, G 31, E 31; these five candidates are therefore elected, with a quota of 31.

In adopting this reduced quota a succession of trials is indispensable; for the reappropriation of the papers after settling the first-trial quota, may displace some of the candidates who were at first within the number to be elected, and bring up in their stead some of the candidates lower on the poll. Those originally higher will therefore be entitled to require that the same process shall be continued until the quota is fixed at its lowest point, and no further substitution can occur. There is really nothing complicated in this process. It only repeats several times what it was at first proposed to do once for all. The alteration of a few lines in the Electoral Law would sufficiently prescribe the course to be taken. A larger number, or perhaps the whole, of the voting papers would, when arranged, be required to be transmitted to the Registrars, and the declaration of the ultimate result would probably have to be deferred a day or two longer.

A very striking illustration of the effect of this mode of computation is found upon its application to the Danish problem, objected to the system of Mr. Andræ (Appendix D, p. 302). It would in that case place B in a

position equal to A and C, by bringing more contingent votes into operation, without the dangerous consequence of giving greatly increased weight to mere numbers. Thus:—

First trial:—Votes polled $\frac{600}{3} = 200$.

First appropriation,—A, 200; B, 99; C, 200; E, 101.

Second trial,—A, 200+C, 200+E, $101 = \frac{501}{3} = 167$. B, 99.

$200 - 167 = 33$.

Second appropriation,—A, 167; C, 167; B, 99+33+33=165. E, 101.

Third trial,—A, 167+C, 167+B, $165 = \frac{499}{3} = 166\frac{1}{3}$. E, 101.

Third appropriation,—A, $166\frac{1}{3}$+C, $166\frac{1}{3}$+B, $166\frac{1}{3}$. E, 101.

The result is, that A, C, and B, are elected by an equal quota of votes. It will be seen, however, that this has been effected at the expense of increasing the minority having no influence on the election, from 99 (as it stood in the example in Appendix D) to 101.

APPENDIX F.

Parliament of New South Wales.

THE earliest suggestions which are found, for the adoption of personal representation in this colony, are contained in the *Sydney Morning Herald*, of the 26th November and 4th December, 1861, on the proposal to make the Upper House of the Colonial Parliament elective, instead of nominative, as theretofore. Early in the session of 1862 a Bill was brought into the Legislative Council, adapting the principle to the election of the Upper House. This Bill was, on the 18th June, 1862, referred to a Select Committee, of which Mr. Wentworth was chairman. The Committee made its Report on the 21st of August, 1862. The following passages relate to this system:—

"As respects the mode of voting, your Committee have given much consideration to the plan now commonly known as that of Mr. Hare, and which has lately attracted considerable notice among leading political writers in Europe.

It has been urged on the attention of your Committee, not only by the intrinsic merits of the scheme, but from the circumstance that it admits of being applied to the formation of a Colonial Legislative Council in a much simpler form than it presents in the original scheme of the author, as intended for application to the British House of Commons. The mere fact of its tending to increase the distinctness of character between the two Houses has been felt to be a strong recommendation. Your Committee are not disposed to shrink from its adoption merely because it is new and experimental.

"The leading feature of the plan is the representation of *all* the electors, in the proportion of the numbers of their respective parties and sections, instead of the representation merely of the majorities prevailing in each local electorate, while leaving the defeated minorities wholly without representation. Under the usual system, if one interest or prejudice be prevalent in a majority of the electors in twenty constituencies, twenty members may be elected to represent those majorities, although the minorities may collectively amount to a number not far short of the successful majorities. A difference of one vote in each electorate might determine the election, and twenty votes might thus determine the fate of twenty elections, leaving thousands of electors, forming the minorities, without a single representative. This is doubtless an extreme supposition; but the merits of any system may be fairly illustrated by showing to what it tends when carried to its utmost length.

"The system of Mr. Hare provides a remedy; but while it renders this injustice to minorities impossible, it equally maintains all the just rights of majorities. It establishes a true representation of the whole society, with its various interests and opinions represented in due proportion; and the manner in which this is effected is, when fully explained and understood, extremely simple. Supposing the number of voters to be 30,000, and the number of members to be thirty, each 1000 voters (called a quota) is considered entitled to be represented by one member. Instead of a local electorate, inhabited by 1000 electors of divided opinion, and comprising a minority, which, if out-voted in that particular electorate, is left wholly without representation in the legislature, each member's constituency will consist of 1000 electors, coinciding in their choice of a representative, irrespective of their places of residence. For this purpose, the whole colony will form a *single electorate*, the electoral districts of the Assembly being adopted solely for the purpose of more conveniently making up the roll and polling the votes, but not for the purpose of restricting the votes of the electors to any special local candidates. This term "single electorate" will, however, be apt to lead to a serious misapprehension, unless care be taken to observe that under Mr. Hare's system the effect of a consolidation of many electorates into one is quite the reverse of that which would result under the present system of voting. Under the present system, it would merely give the aggregate majority the power of

defeating the aggregate minority on a wider field, and of sending into the Council a preponderating number of members to represent one party to the exclusion of the other. The sub-division of electorates under the present system thus increases the chance of the occasional prevalence of a weaker party in one or more local electorates, but it affords a mere chance, uncertain and capricious, whereas Mr. Hare's system insures, without any subdivision whatever, the due and proportionate representation of each party. Thus, while the colony forms a single electorate as regards territory, each quota of electors, agreeing in the choice of a member, forms a separate electorate as regards persons.

"Each elector can thus ensure the return of at least one candidate, by associating himself with a sufficient number of fellow-electors, wheresoever resident, to form a *quota*. But if the vote of each were limited to the naming of the one candidate he prefers above all the others, it is evident that more than the quota would often concur in the choice of a popular candidate, and thus lead to the throwing away of the votes given in excess. To prevent this, each voter is entitled to name several candidates in the order of preference, so that if the vote be not required for the first, it may be used for the second, if not for the second, then for the third, and so on, to ensure its being made ultimately contributory to the election of some candidate of his choice. He cannot fail of his object so long as he does not fail to name on his list some one candidate in whose election he and the required proportion of other voters concur. Whether the first or last on his list be the recipient of his vote, his intentions are equally fulfilled. More so, indeed, if it be the last, for it can only descend to that candidate when all those higher on his list, and therefore of his earlier preference, have been already elected by other votes. Nor is this justice to individuals purchased at the expense of any injustice towards leading parties and majorities. Whatever number of quotas are comprised in the ranks of any party, they can so vote as to obtain a corresponding number of members, and thus maintain their legitimate proportion of influence in legislation. The *ideal* of representative government in the writings of statesmen has long been the representation of classes and interests in due proportion, so as to render the legislature a true epitome of the political opinions of society. Hitherto nothing but an approximation to this *ideal* has appeared possible. Mr. Hare's system, for the first time, proposes to make it a *reality*."—[*Ordered to be printed*, 21 *August*, 1862; *Sydney. J. Richards, Government Printer.*]

The Committee amended, agreed to, and reported, the Bill. It was read a first time in the Legislative Council, and on the 4th September, 1862, on the order of the day for the second reading,

Mr. HOLDEN said that on account of the share he had taken in preparing the amended Bill, and his identification with one of the chief principles of the measure, he had yielded to the desire of several members of the committee to bring forward the measure. His ambition was limited to securing the result he desired; and if that result—the passing of a safe and wise measure—could be obtained by the *silent* expression of his secret will, he would gladly relinquish to others the prominent share in the steps taken to accomplish it. He had been uniformly a supporter of the elective principle, and had advocated it ten years ago in this Chamber. He had, however, felt its difficulties; and perhaps the delay which had taken place had not been without its advantages. He believed that the enunciation, in the mean time, of Mr. Hare's system, had thrown a new light on the subject, and had rendered it possible to do now what it was impossible to do then. When that system was first brought to his attention it struck on his mind exactly as it struck on the mind of John Stuart Mill; and he was not ashamed to identify his own feelings and ideas with those of that great man. He (Mr. Holden) could have written and thought and felt exactly in the words in which he (Mr. Mill) said (referring to Mr. Hare's system of representation) that "it solved the difficulty of representation, and by so doing raised up the cloud which hung over the future of representative government, and therefore of civilization." For he felt that the civilization of mankind was identified with the success of true, wise, well-constituted representative government, and that that species of government never had existed yet on the face of the earth. But he trusted that it would, and might, and should exist; and he trusted that the first specimen of it might be exhibited in this country. And the only fear he had about it was, that it might not be so effectual as it would otherwise be (supposing that this Bill should pass), because of the system being confined to one House of Legislature, and not being extended to the other. The hon. member then stated that his measure, though alleged to be in a spirit of conservatism, was yet truly in accordance with liberal principles, and showed that his views of the necessity, function, and qualification of a Senate, were those expressed by the founders of the American Republic—by Madison and Hamilton, in the *Federalist;* by Calhoun, by Sir James Mackintosh, and also by Lord John Russell. The want of a proper negative power in the constitution of a country compelled the Legislative power, when established on too wide a basis, to concentrate itself by degrees into a single Executive. This occurred as an inevitable consequence if the struggle for place and power between the two parties of the State was more and more developed, until at length all power was virtually concentrated in political leaders—ruling as absolutely as any aristocracy. The evil was augmented instead of lessened, as the community advanced in prosperity. By rendering the representation more equitable as regarded the interests of opposing parties, it was made more possible to have universal suffrage without the dangers which might be apprehended to arise therefrom, and the division of power secured by such a division of power, promoted a harmoni-

ous action between co-existing interests which would not be likely otherwise to take place, or to continue uninterrupted. Speaking of the mode of voting adopted in this Bill, Mr. Mill, in his work on Representative Government, said, "Of all modes in which a national representation can possibly be constituted, this one affords the best security for the intellectual qualifications desirable in the representatives. At present, by universal admission, it is becoming more and more difficult for any one who has only talents and character to gain admission into the House of Commons. The only persons who can get elected are those who possess local influence, or make their way by lavish expenditure, and who, on the invitation of three or four tradesmen or attorneys, are sent down by one of the two great parties from their London clubs as men whose votes the party can depend on under all circumstances. On Mr. Hare's system, those who did not like the local candidates would have the power to fill up their voting papers by a selection from all the persons of national reputation on the list of candidates, with whose general political principles they were in sympathy. Almost every person, therefore, who had made himself in any way honourably distinguished, though devoid of local influence, and having sworn allegiance to no political party, would have a fair chance of making up the quota; and with this encouragement such persons might be expected to offer themselves hitherto undreamt of. Hundreds of able men of independent thought, who would have no chance whatever of being chosen by the majority of any existing constituency, have by their writings or their exertions in some field of public usefulness made themselves known and approved by a few persons in almost every district of the kingdom; and if every vote that should be given for them in every place should be counted for their election, they might be able to complete the number of the quota. In no other way which i seems possible to suggest would Parliament be so certain of containing the very *elite* of the country. Not solely through the votes of minorities would this system of election raise the intellectual standard of the House of Commons. Majorities would be compelled to look out for members of a much higher calibre. When the individuals composing the majorities would no longer be reduced to Hobson's choice, of either voting for the person brought forward by their local leaders, or not voting at all; when the nominee of the leaders would have to encounter the competition not solely of the candidate of the minority, but of all the men of established reputation in the country who were willing to serve; it would be impossible any longer to foist upon the electors the first person who presents himself with the catch-words of the party in his mouth, and three or four thousand pounds in his pocket. The majority would insist upon having a candidate worthy of their choice, or they would carry their votes somewhere else, and the minority would prevail. The slavery of the majority to the least estimable portion of their number would be at an end. Had a plan like Mr. Hare's by good fortune suggested itself to the enlightened and patriotic founders of the American Republic, the Federal and State Assemblies would have contained many of those dis-

tinguished men, and democracy would have been spared its greatest reproach, and one of its most formidable evils. When the Democracy is supreme there is no One or Few strong enough for dissentient opinions, and injured or menaced interests to lean upon. The great difficulty of democratic government has hitherto seemed to be, how to provide in a democratic society, what circumstances have provided hitherto in all the societies which have maintained themselves ahead of others—a social support—a *point d'appui*, for individual resistance to the tendencies of the ruling power; a protection, a rallying point for opinions and interests which the ascendant public opinion views with disfavour. For want of such a *point d'appui*, the older societies, and all but a few of the modern ones, either fell into dissolution or became stationary (which means slow deterioration), through the exclusive predominance of a part only of the conditions of social and mental well-being. The only quarter in which to look for a supplement or completing corrective to the instincts of a democratic majority is the instructed minority, but in the ordinary mode of constituting democracy this minority has no organ; Mr. Hare's system provides one. The representatives who would be returned to Parliament by the aggregate of minorities would afford that organ in its greatest perfection. A separate organization of the instructed classes, even if practicable, would be invidious, and could only escape from being offensive by being totally without influence. But if the *elite* of these classes formed part of the Parliament by the same title as any other of its members, by representing the same number of citizens, the same numerical fraction of the national will, their presence could give umbrage to nobody, while they would be in the position of highest vantage both for making their opinions and counsels heard on all important subjects, and for taking an active part in public business. Their abilities would probably draw to them more than their numerical share of the actual administration of Government, as the Athenians did not confide responsible public functions to Cleon or Hyperbolus (the employment of Cleon at Pylus and Amphipolis was purely exceptional) but Nicias and Theramenes and Alcibiades were in constant employment, both at home and abroad, though known to sympathise more with oligarchy than with democracy. The instructed minority would in the actual voting count only for their numbers, but as a moral power they would count for much more in virtue of their knowledge and of the influence it would give them over the rest. An arrangement better adapted to keep popular opinion within reason and justice, and to guard it from the various deteriorating influences which assail the weak side of democracy, could scarcely by human ingenuity be devised. A democratic people would in this way be provided with what in any other way it would almost certainly miss—leaders of a grade of intellect and character better than itself. Modern democracy would have its occasional Pericles, and its habitual group of superior and guiding minds. With all this array of reasons of the most fundamental character on the affirmative side of the question, what is there on the negative? Nothing that will sustain examination when people can once be induced to

bestow any real examination upon a new thing. Those, indeed, if any such there be, who under pretence of equal justice aim only at substituting the class ascendancy of the poor for that of the rich, will, of course, be unfavourable to a scheme which places both on a level." The hon. member addressed himself to the question of the suffrage for the Council roll. He had been asked why they did not adopt the ballot? He had been anxious for something of the kind in first drafting his Bill; but it might be said in reply that Mr. Hare's system was itself so superior that it would not conform to the ballot, to secret voting in its essence; but still there was so much of the ballot that there could be no violence, no influence used at the time of voting, which the ballot sought to avoid. He moved that the Bill be read a second time.

Mr. PLUNKETT seconded the motion; and after some observations by Mr. Mitchell, Mr. Merewether, Mr. Brown Russell, and the Attorney-General, the debate was adjourned.

The above report, omitting the argument on the other portions of the Bill, is taken from the *Sydney Morning Herald* for Thursday the 4th September, 1862. The report of the discussion on the next day has not come to hand, which is the more to be regretted, as the Bill appears to have been opposed by one member, Captain Ward, who would seem from the subsequent report to have addressed himself especially to this method of election, and to have contended, 1, that it would not be a guarantee for the representation of majorities and minorities in just and equal proportion, putting forward in support of that argument, substantially the problem suggested in Denmark, in which E with 101 third votes is elected, while B, with 299 second and 200 third votes, fails (See Appendix D, p. 302); 2, that mere single voting would be a better method without the contingent vote; and 3, that the loss of votes, owing to a large number of electors polling for the favourite candidates, might be obviated by publication of the state of the poll from time to time.

Wednesday, 17th September, 1862. The debate was resumed by Mr. MEREWETHER. He did not admit that popular election of an Upper Chamber was better than a selection by the ministers of the Crown, with proper restrictions, to prevent a creation of members to carry particular measures. If the Lower House was the people's Chamber, the Upper should be the

Chamber of statesmen, composed of public men who had passed through great political offices and employments. Addressing himself to the election clauses, &c., he could not refrain from referring to the manner in which his hon. friend Mr. Butler had misunderstood both Mr. Hare and Mr. Mill on this subject. The hon. member had complained that the committee had mutilated Hare's scheme by rejecting manhood suffrage. But Mr. Hare's scheme had nothing to do with manhood suffrage; it was, in fact, devised for England, where, happily, manhood suffrage did not exist. But Mr. Hare's scheme was nothing more than a mode of voting applicable alike to any constituency. He had weighed the Bill under a deep sense of their responsibility to the future, and he supported it not as a perfect measure, but as one which it would be wise in them to pass, and as one which they might pass without prejudice to the future policy of the country.

After discussion on other parts of the Bill,—

Mr. HOLDEN replied.—The first objection of Captain Ward arose from a misapprehension of the principle and object of the contingent votes. Their entry on the voting paper was apt to be misunderstood as a departure from the system of single voting, whereas it was merely an expedient to prevent the single vote from being thrown away on a candidate who did not require it. It merely indicated for whom the elector would desire to give his vote, if on his coming to the poll he were told, "Mr. A., for whom you intend to vote, is already elected by a full quota, and you are therefore at liberty to aid in the election of another." It was not a second vote, and should be regarded as if it were non-existent, or written in invisible ink, until effect was given to it in consequence of the primary vote not being required. Then it has all the effect of a primary vote. Such being the case, it was evident that no candidate whose name was second on any voting paper has any claim whatever to consideration on this account if the first-named candidate received the vote as a part of his quota. It was a mere indication that the elector would have voted for him if he had not used his vote for another in preference. A vote given by an elector to B, because his greater favourite A did not require it, was as good a vote as the vote of another elector, who esteemed B as superior to A. Now if these two considerations were borne in mind, all the objections raised by his hon. friend Captain Ward to the method of allotting contingent votes, on the ground of supposed injustice to candidates, fell to the ground. It was wholly the concern of the voter, and if he had secured the privilege of rendering his vote—his one vote—effectual for some one candidate of his choice, no other candidate was entitled to complain. Surely nothing could be more ridiculous than that a candidate should complain of it as a hardship that he is not allowed to derive any advantage from the votes of electors whose votes had returned another, because they would have voted for him if they had not voted for that other person. But although no candidate had any greater right than another to influence

the selection of the voting papers which were to be taken as the surplus beyond any candidate's quota, general policy required some rules, and these have been applied. The first rule was to select those on which the greatest number of contingent votes were entered. The reason of this was obvious. The greater the number of names entered, the less likely was the vote to be lost in the election. After this rule had been applied, Mr. Hare had introduced a great number of complicated rules, which he had rejected for the sake of greater simplicity. All that appeared necessary to him was, to provide some rule which should preclude any selection of papers by the registrar, through personal or political motives. A political motive could, indeed, hardly apply, because the question would not be (as now, in ordinary elections) between candidates of different parties, but those of a second choice of two electors of the same party, which of two voters for A should have a second choice, because A did not require both votes. An equality of chance was the only impartial course to be adopted, and the most convenient mode of accomplishing this seemed to be the taking the votes in the order in which they happened to stand on the roll; and, notwithstanding it was characterised by the hon. and learned Attorney-General as absurd and ridiculous, he would venture to abide by it until some wiser and better plan were suggested; when that were done, he was perfectly ready to consider and adopt it. The hon. member (Captain Ward) said that under this system A might be returned and B rejected by a course which had no greater merit than the system of tossing up. This was a very narrow and fallacious view of the case. The *system* was a matter altogether distinct from the tossing up. True, it might be that in the working of the system, as in that of any other, a state of facts might result in which there might be a tie, or two or more parties might have equal claim to that which all could not by the nature of the case obtain. A resort to some plan equivalent to tossing up was in such case the only way out of the difficulty. But the hon. member (Captain Ward) had not been content with criticising the system of Mr. Hare. He has declared his preference for another. The system of single voting without quotas and without contingent voting appears to him preferable. It will, he says, protect minorities better. Possibly it might do so; but in what manner and at what expense of confusion and injustice towards majorities it might be worth while first to consider. Taking his friend Captain Ward's illustrations in order, he would answer his objections *seriatim*. In his first example, he complained that if 1, 2, 3 were taken to make A's quota, A and C would be returned, whereas if 4, 5, and 6 be taken, A and B would be returned. He (Mr. Holden) denied that this was any objection, unless either B had some claim superior to A, or A superior to B. This not being shown, some form of decision by lot was the just and proper course. If instead of an election by contingent voting the votes had been taken by 1, 2, and 3 going to the poll first, and 4, 5, and 6—knowing how they had voted—going to the poll afterwards, and voting for the candidates of their respective second choice, in consequence

of such knowledge, the candidate whose election was defeated by his not receiving the vote of 1, 2, or 3 would have no ground of complaint, because he would have received it had they voted last in order. With regard to the second example, in which a greater claim was maintained on behalf of the excluded candidate, on account of his having more primary votes, the fallacy of the objection was equal, though of another kind. It was forgotten that when the contingent votes were used, they had the same force as primary votes. The fact that an elector would have voted for A, if A had wanted his vote, did not render his vote for B less valid, if it were not used for A. Thus, the return of C, in example two, by contingent votes in excess of B's primary votes, is quite legitimate. It was not because the vote was called contingent when placed on the voting paper that it was contingent or inferior when used. It has then become absolute, and of equal power with the primary vote. It was the actual vote of one elector. The third example turned upon the converse fallacy. Here contingent votes were taken into account which had never taken effect. The objection assumed that B was entitled to reckon, as influencing his claim to consideration, contingent votes on voting papers actually used for a preceding candidate. These were only votes which would have been given for B, but have not been given in fact. They should be, therefore, considered as non-existent for the purpose of the computation, and the objection would then utterly vanish. This system of single voting, without the protection of Hare's adjuncts, was that proposed in the Bill of the Forster Ministry; but as it was never fully discussed, public attention was not attracted to the objections to which it was open, although they at that time very clearly presented themselves to his mind, and he was thereby more prepared to welcome Mr. Hare's discovery as an escape from them. And his friend Captain Ward hinted that some better plan than Mr. Hare's contingent voting might answer all the purpose of this cumbrous system,—this better plan being, as he understood, a public statement of the number of votes already polled for candidates. If his honourable friend had said at once that he proposed to supersede the necessity of a cumbrous system by a system of voting through the electric telegraph, he could hardly have more astonished him. If he would show in what manner his suggestion could be practically carried out, he was willing to relinquish the field to him. The only merit he claimed for Hare's system was that of doing in the most practicable way which has hitherto been propounded. But what did the publication proposed involve? First, that by some miracle of intuition all the polling-officers in the colony were to be aware of the instant at which any candidate had acquired a sufficient number of votes in the aggregate to effect his return. Secondly, that the polling be then simultaneously stopped, and the fact published, the machinery of election being suspended until all the electors are duly apprised. When, on this being effected, the election recommenced, it could only go on until another candidate were elected, when the polling would again stop, and the same proceedings would be

repeated until the electors were tired of travelling backwards and forwards to the poll. If it were practicable to prevent votes being thrown away at elections by any such publication as his hon. friend suggested, it would surely have been long ago introduced in connection with the existing system. It was no part of the avowed policy of the electoral law that votes should be thrown away. It had only been tolerated, as an evil supposed to be unavoidable, until Mr. Hare's invention had, for the first time, supplied a remedy.

The second reading was carried by a majority of 11 to 4. It was passed by the Legislative Council, and read a first time in the Legislative Assembly. In that House, on the 13th November, 1862, on the order of the day for the second reading,—

Mr. WILSON, after addressing himself to the other questions, said he had heard no one who had risen to speak attempt to defend the principle of one electorate only, and the only question was, would it be at all tolerable even under Hare's system?—though it was scarcely to be dreamt of that that should be adopted here. He believed it to be too complicated for any person to understand it; so much so, that he did not think there were ten members in this House and the other who thoroughly understood it. [An hon. member: "It is very simple."] Possibly it might be; but they had the declaration of the Master of the Mint, who was no mean authority in mathematical matters, that it was directly the reverse. For himself, he would confess that he had not understood much of it when it was first introduced into the Bill, but afterwards the explanations of the hon. gentleman who had proposed it had so mystified him, that he now knew less of it than before.

Mr. MORRIS, after adverting to the franchise and other subjects, added, the principle, however, most important in this Bill, whatever franchise might be adopted, was the principle known as Hare's system—a system of election by quotas. There had been great prejudices against this system, and it had been frequently observed by hon. members that they could not understand the practical working of it. He would explain to the House in a few minutes that there was no mystery in connection with the practical application of this principle. Hare's system was the only one by which representation according to numbers could possibly be secured. Under that system a man carried his rights with him, and could exercise his power of voting in whatever part of the colony he might be at the time of an election. If the Upper House be composed of members returned for large districts, it would, after all, be a mere reflex of the majority of the community; and consequently, out of a community of 100,000 people, it might so happen that 49,000 were not represented at all. But such a state of things could not

possibly arise under Mr. Hare's system. He wanted to know why these 49,000 persons were not to be represented? No reason had yet been given why the majority of the people should have the whole of the representation. This principle — which many hon. members were fond of exalting — of taxation and law-making by representatives, was practically ignored by the system at present adopted; the majority alone of the community made the laws and taxed the people.

Mr. LOVE did not think there would be any necessity for discussing Hare's system, because the country was so thoroughly against it; and it was so imperfectly understood, that every one believed it would never become the law of the land. He considered it to be a system that would never work well in this country; it might look well in theory, but would be impracticable. Too much power would be left in the hands of the Registrar-General, who could almost return what members he pleased.

Mr. DALGLEISH, among other observations, said: As to the principles of this Bill, he disagreed with them all, except the one pertaining to Hare's system. He believed that no system of representation was so perfect, or so capable of fully eliciting the will of the people as this which was called Hare's. It was impossible to define it fully in a speech, but any hon. member who carefully examined it would see the truth of what he stated. The hon. member (Mr. Harpur) had struck the only objection that he saw to the system, in the suggestion as to two candidates having equal votes. The effect of this would be to throw the election virtually into the hands of one person. But the present and any other system was open to the same objection. Such an occurrence would, however, happen only very rarely. He did not agree with the drawing by lot as proposed, but would prefer to have the decision left to some impartial person, uninfluenced by personal considerations, as a returning officer should at all times be. Hare's system, he repeated, was the only true way of obtaining the will of the people, and by having the whole colony formed into one great electorate, and all the elections taking place on the one day, every one could vote, while no person could possibly vote in more than one electorate. He could not understand how members of that House could say they preferred the present nominee Chamber to an elective House under the Hare system. He was told, when he asked how it was that hon. members could possibly express such an opinion, that they justified the preference indicated on the ground that, in the present state of things, there was the "swamping power" to fall back upon. He could not understand the force of such an argument as that. Was it to be supposed, if a ministry, to insure a majority, should suddenly create a number of new members, that an immediately-succeeding government would be disposed to accept such a set of nominations? And if they should not accept them, what was to be done? Was it not clear that their only course in such a case would be to increase the number of members of Council to a very large and indefinite extent, so that the influence of such a Chamber might be practically nullified.

Mr. W. FORSTER, after explaining what had been proposed by a former ministry, and discussing the general question of the construction of an Upper Chamber, observed that representation of the average opinions of the country was assumed to be arrived at under our present system. But how was it proposed to produce that effect when there was only one electorate returning six or seven members? [Mr. Harpur: By the progress of truth.] Whatever faith the hon. member might have in the operation of truth (or perhaps Providence was meant), it was their duty, as legislators, to have in their institutions as little liability to error as possible, to prevent injurious and unjust results. It was a palpable injustice when, in proposing to give the whole country representation, a small majority of a constituency was given the power of returning the whole of the members. That was a result we should endeavour to guard against. He thought a majority of the House would agree with him that this would be unfair, and not a representative in principle at all—only one section was represented, having, it might be, only a majority of three or four, to the entire disfranchisement of the other, at any rate, for a certain period. He thought a result like that which must arise in many instances ought to be guarded against by the institution they were now endeavouring to perfect. He thought he had demonstrated that if the principle of large electorates were admitted, they must alter the system of voting. It was the fear that he and others entertained of this result which led him to make, in the measure his administration introduced, a provision by which an elector was allowed to vote for only one candidate. He admitted that that was an imperfect attempt, and he conceived that Hare's system, so much spoken of in the present debate, went in the same direction, but did the thing aimed at in a far more effective and just manner. They had heard all sorts of denunciations, but not a single argument against that system. Was it a reason that the House should reject this system, which had obtained the attention and approval of thoughtful men, including one honourable member well known to be extreme in his democratic notions, because certain hon. members informed the House that they did not understand it? Or did it follow that because hon. members did not understand it the public would not understand it? It was called a conservative measure. Now, according to his mind, it was one of the most democratic measures ever proposed; it was a complete innovation upon old established principles. It was conservative in the sense in which every reform was conservative, because it seemed to him to conserve justice, being allied with truth and equity, and thus conserving the very best interests for the people. That it was conservative in the sense of obstruction, in the sense of the word "tory," or the maintenance of obsolete, oligarchical, or anti-democratic notions, he denied; and no one who thoroughly considered its operations could entertain such an opinion for a moment. They were told that it was unpopular—that the people out of doors were against it. But the people out of doors had not considered it; there had been no discussion or expression of opinion on the part of the public to entitle any hon. member to come to that conclu-

sion. He thought it was a popular belief in the widest sense, though not in the superficial sense of being approved of by the people, because they had given no opinion upon it. But it was popular as being thoroughly democratic in its theory, and would prove democratic in its practice. It seemed to be the idea of population carried out in principle; the principle of proportion applied to numbers. In brief, he might say that at its roots were the axiom that equal numbers should have equal representation. [Mr. Harpur: Not as embodied in the Bill.] He admitted that the details were imperfect; he was speaking of the principles of the system. So far as equality could be attained, the system proposed that each equal portion of electors should have an equal representation; and could the equity of the system be better shown? How was it possible to find fault with a system that told off the community into different sections, giving each a representative in proportion to its numbers? [Mr. Harpur: Stereotyping faction.] This remark contained no argument. Anything might be termed faction. Majorities in the House, and even the Government themselves, had been termed a faction, until people were tired of hearing it. This system was a mere mechanical provision, if anything like faction could be involved in that. He believed he had been able to understand the system, after giving it a considerable amount of attention, and he would endeavour to explain to the House some of the features he had remarked in it, and which he thought were in its favour. One objection he had heard against the system would show the manner in which it was treated by honourable members. It was said, suppose a case in which 20,000 electors were to return ten members, and supposing there were forty candidates, each having an equal number of votes — why, such a thing was simply impossible; or if possible it was provided for by this system. The easiest way of putting the question was, by supposing a case of one electorate where there was but one returning officer. Supposing there were 10,000 votes to be given and ten members to be returned. The quota was arrived at by a simple sum in division, the number of electors being divided by the number of persons to be elected. Thereby was obtained what was called a quota. It was not arbitrary, but a definite proportion of the electors to the elected. [A voice: How if *less than the quota* voted?] And here he took exception to the phraseology of the Bill—the expressions "primary" and "contingent" not being at all connected with the Hare system of voting. Strictly speaking, there was but one vote. He was supposing a case where the electorate was sufficiently limited to admit of one returning officer officiating. Say there is a certain number of candidates to be elected—ten, for instance—and there are 10,000 electors. In such case the quota will be 1000 votes. Well, the returning officer receives votes up to 1000 for A and B. After that, if any electors wish to vote for A and B, they are told the votes are not required, and they then vote for C and D, or, if these candidates have also obtained the quota, they are carried to E and F, or any others that the electors approve of. [Mr. Harpur: But the votes are given on paper.] It

is not at all necessary. In this way, in a small electorate, the whole number to be returned may be elected without the necessity of any great expense, and without the need of much official machinery. But, of course, when you came to apply the principle to extensive electorates, then this official machinery became necessary, just as it was necessary at present. It was not more liable to abuse than any other system. In all cases you must necessarily depend on the integrity of individuals, and if they could not repose confidence to this extent in their officials, the sooner we obtained a despotism the better. But he (Mr. Forster) had no doubt on this score, and he saw no difficulty whatever in applying this system, which embraced the best possible means of securing a representation of opinions. It was argued that persons might combine to secure the election of particular candidates. But was there anything improper or undemocratic in that? Suppose the Wesleyans, or the Roman Catholics, or any other body, desired to elect one of their own number to represent them, was there anything wrong in their combining in order to secure that end? He maintained there was not. On the contrary, he contended it was quite in accordance with the true theory of representation, which regarded the candidate as the representative of opinions, and not of mere numbers. The more he considered the Hare system, the more he admired it as calculated to secure democratic freedom. He might be told that it destroyed responsibility. It destroyed responsibility to local opinion, perhaps; but it held the representative amenable to the general opinion of the country; for the holding of his position must depend on his having gained the confidence and the respect of the commonwealth of which he formed part. He (Mr. Forster) said, therefore, he had no hesitation in giving in his adherence to the Hare system—a system admirable for its simplicity, and one that did honour to its contriver in the mother-country, and for the introduction of which the honourable gentleman who had brought it so prominently under notice here was entitled to great credit.

Mr. HOSKINS would accept the single electorate, in combination with Hare's system, which had the advantage of giving effect to every vote. The provision for giving five votes to each elector was no part of Hare's system, and should not have his support.

Mr. LUCAS was in favour of trying Hare's system; and, in so far as he could understand it, he regarded it as being as simple and easy as the present system. Nor did he think there was any possibility of a vote being lost, as had been stated by one hon. member; for every man who voted must tell for one member at all events; and if he put one name only on the paper, then it would be the duty of the returning officer to first select those papers which had one name only on them, so that the vote should not be lost. The present bill differed somewhat from Hare's system, but he believed that difference to be an improvement. Under the system the returning officer collects the number of votes registered, and from that forms his quota. Thus, if there were 30,000 electors and thirty to be returned, he formed his

quota by dividing the one by the other; but if only 8000 electors voted, the probability would be that the matter could not be worked out, inasmuch as no one member would get a quota. According to the bill, however, the returning officer took the number of votes actually recorded, and divided them by the number of members to be returned, in order to obtain his quota. In that way every man would have his vote used, without the possibility of loss. He believed the system to be a good one, and he would like to see it tried; and as there was a bill to amend the Municipalities Act now before the House, he thought a good opportunity was afforded of testing the working of the system. He would be willing enough to apply it to the Council elections if the bill were such a one that he could support.

Mr. R. FORSTER would remove from the bill the part relating to Hare's system, for the simple reason that he did not understand it. It appeared to be a very ingenious theory, but one that had never been brought into operation. The Government were bound to see that the bill, with the alterations proposed, was passed by the Upper House, and was not again sent back to us.

Mr. HOLT thought that the hon. member for New England (Mr. R. Forster) might, if he would only take the pains, easily understand Mr. Hare's system of representation. He would try to explain the matter to the hon. member. The system would give every elector the opportunity of voting just as if he knew the state of the poll. He would suppose that there were twelve hundred electors, and that there were three vacancies; the quota in that case would be four hundred. He would also suppose that the four Ministers were the candidates. First of all, the electors would vote for Mr. Cowper, who ought to be returned on account of his long services. Well, when the number for Mr. Cowper was made up the elector would give his vote for the Minister for Lands; and on Mr. Robertson's number being made up he would give his vote for Mr. Arnold. Every elector had the opportunity of doing what he would do if the polling booths had glass windows. Although the clauses were drawn up in legal phraseology, they were when examined easily intelligible. The instructions to the scrutineers were very complete and explicit. He looked upon this bill as merely a skeleton measure, and in voting for the second reading it was with an anxious desire to get this important matter settled. He did not, however, commit himself to any of the details. If he thought any bill could be so altered as to make it a satisfactory measure, as he thought was the case with this bill, he would support it. There was a good deal in the bill of which he quite approved, and more especially that clause which contained Hare's invention, as it might be termed.

Mr. STEWART said that, as to Hare's system, he must admit, from the opportunities he had had of judging, it was his impression that nineteen-twentieths of the community did not and would not, if it was passed, know how to carry it into effect. He thought the present system, which enabled the electors at the close of the poll to know which was the successful candidate,

was the best that we could adopt, and with the ballot the elections had been the most satisfactory that had taken place in the colony.

Mr. DANGAR and Mr. DICK addressed the House, and on a division the second reading was carried by a majority of 24 against 20.—*Sydney Morning Herald*, Friday, November 14th, 1862.

Soon after the debate the Ministry resigned, and the measure proceeded no further.

APPENDIX G.

Parliament of Victoria, Wednesday, 4th March, 1863.

IN a Bill for the Amendment of the Electoral Law of the Colony, it was proposed to allow any voter of a constituency entitled to elect more than two members, to vote for all the candidates which the constituency could elect, or cumulate such votes on one or more of the candidates. The discussion on this clause is fully reported in the (*Melbourne*) *Argus*, Thursday, March 5, 1863, and somewhat more briefly in the (*Melbourne*) *Age* of the same day.

Mr. FRANCIS, to raise the discussion on the question, moved an amendment rejecting the clause for cumulative voting, but without therefore pledging himself to vote against it. He thought that if the clause passed, as it stood, it would be an instance of too rapid legislation in so young a colony. He should like to see the principle first accepted elsewhere. He had not heard of its introduction into the elections of members of the House of Commons. The proposal of Lord John Russell had not been adopted. It was scarcely adapted to a constituency returning less than three members, and was inapplicable to a constituency returning only one. In such a constituency the successful candidate might receive 1,100 votes, and the next on the poll might have 1,095. Where, under this clause, would these 1,095 voters find representation? This led him to think that the clause did not go far enough, or, that it failed to provide a perfect mode of representing minorities. . . . He should be glad to hear arguments which would justify the Parliament of Victoria in being the pioneer in such a legislative experiment.

The ATTORNEY-GENERAL said the question had been left an open one by the Government. When he introduced the bill the matter had not been fully considered. Hare's book, with the commentaries upon it, had arrived in the colony while the bill was being draughted. In the legislature of New

South Wales, a bill had already been introduced by Mr. Wentworth, giving effect to Hare's system. . . . . He thought it desirable that minorities should be represented. Take a constituency with 2,100 voters. It seemed very hard that a moiety of the constituency with one or two votes over should have the power to send into Parliament a member to represent the whole of the constituency, when nearly one half of them would not be represented. It was said that it was wrong to make the experiment now, when it had not been adopted by the Imperial Parliament. He had great respect for the House of Commons, but, if the principle was a philosophical one, the fact of its not being introduced at home was no reason why it should not be tried here. It was also urged that it was not a perfect principle, but it was useless to aim at perfection, for some fraction of the minority must always be unrepresented.

Mr. HEALES objected to the attempted application of the principle to particular districts only. There was no class of the community to whom he would give advantages which others could not enjoy. If the power of concentrating their votes should be given to the voters of certain districts it would be unjust, and give one set of voters an unfair advantage over others. He was opposed, moreover, to the principle of the representation of minorities.

Mr. J. T. SMITH opposed the clause. In the district which he represented three members were returned, and the effect of the clause would be injurious to it. Were it divided into three portions, and each part allowed a member, it might be represented as a whole; but to give an inconsiderable minority, perhaps not numbering one-twelfth of the whole body of electors, the privilege of returning a member who would vote in opposition to the other two, was practically to reduce the representation of the district to a single member.

Mr. WOOD said that if the Legislature once laid down a correct principle that was a very important thing, even though it were attended with no great practical results. He was not affected by the argument that this was a small experiment, applying to four constituencies only. It was for the political philosopher to lay down a great scheme, and it was for the practical man to test that scheme. The hon. member for East Bourke had said that minorities did occasionally return representatives, even under the existing system, by what was commonly called plumping. This was, however, a mere matter of chance; it could only happen where the majority was divided. The same hon. member had also told the committee that under the present system there was a representation of a variety of opinions; that the colony was divided into various interests—mining, agricultural, and town interests; but the hon. member seemed to have overlooked the fact that the same class might be predominant in every instance—that the majority, in every instance, might hold the same set of political opinions. To take the question of protection, for example. There might, probably, be a majority in the towns in favour of protection; and they all knew that in the agricultural constituencies, the farmers, and probably the labourers, were also in favour of

protection. In the mining districts, no doubt, there was a majority against protection. It was clear, however, that even on the question of protection there would be a majority in favour of protection in two classes of constituencies, although those two classes might seem, at first sight, to have no connexion whatever. The result of the present electoral system had been, that there was a representation of interests, but not a representation of opinions. He did not think that interests ought to be represented at all. What, after all, was the representation of interests but the representation of selfishness? Men's "interests," in the common meaning of the word, implied that a certain number of persons belonging to the same sphere or the same branch of industry thought their selfish interests would be advanced by a certain course of legislation being pursued. That was not what ought to be obtained in the selection of representatives; but if, as was the case, it was found that the people of the colony held very different opinions, the object ought to be to get as many as possible of those opinions represented. How was the truth to be elicited but by hearing different opinions expressed by those who were best able to put them forth in the Legislature? Every interest in the colony might be represented, and yet nothing like a majority, or even a fair proportion, of the opinions of the colony be represented. It had been asked what practical advantages would follow the adoption of the principle of the clause? Great advantages would follow it, if it were carried out systematically. All classes of opinions, or, at all events, all those opinions which commanded the assent of any considerable portion of the colony, would be represented in that House, and all sides of any question would be heard. Whatever Ministry had been in office, he believed that it had not represented, in any degree, opinions, and the consequence had been to degrade the politics of the colony. Instead of being supported on the ground of its opinions, the Ministry had always been supported on personal grounds or interests; and either a Ministry or an Opposition, supported on those grounds, did not tend to raise the character of the Legislature. In the constituencies of Collingwood and St. Kilda, large minorities were defeated on every contest. The result of all elections had been that the minority was politically annihilated. This was calculated to lead to political inaction. The minority, feeling themselves powerless, would decline to take any part in future elections. This was not a desirable state of things. It was not to the interest of the colony that a large body of men should be led to feel that it was useless for them to take any part in political contests. A gentleman sitting behind him said, "Divide the constituencies." No doubt, in some cases, one class of political opinions was predominant in one part of a district, and another class of opinions was predominant in another part of the district. This, however, was a mere accident; it was one which was not likely to continue, and above all, it was one upon which no stable system of legislation ought to be based. The Legislature ought to endeavour to give the minority a fair share of the representation in every locality. It had been said that the four constituencies ought to be consulted by their representatives before the

change. If it were proposed to place them under some disability, it might be reasonable to ask their opinion, but he really could not see what ground they had for being consulted, when it was proposed to confer on them a privilege not extended to other constituencies. Moreover, it was contrary to the very principle to consult the constituencies, for it was the opinion of the majority which would have to be asked, while the principle of the clause was the representation of the minority. He could refer to subjects which had been agitated from time to time in the colony; and, without disrespect to any members, he would say that candidates had been driven of necessity occasionally to conceal their opinions, or, at all events, to put a gloss upon them. ("Oh!") No doubt there might be a class of persons who had not been driven to that—who, having no opinions of their own, merely endeavoured to ascertain the opinions of a majority, in order to subscribe to those opinions; and he admitted that that class of persons had had no violence done to their opinions. (Laughter.) From time to time a few active persons banded themselves together to agitate for certain changes in the law. When the Constitution was inaugurated, many persons were anxious for the repeal of the clause which authorised a grant of £50,000 a year for religious purposes; and in almost every constituency where these persons had been at all successful candidates were driven to say either that they would vote for the immediate abolition of state aid to religion, or that they would not oppose the principle, although they thought the grant ought to be continued for some years longer; and yet all this time there was a very large minority entirely opposed to the theory. (Hear.) Then, with regard to the land question, there had been from time to time a vast amount of agitation, and persons had been obliged to give up the opinions they entertained, or, at all events, simulate opinions which they did not hold, in order to be returned. But it would have conduced more to the character of the Legislature if these persons had been able to come honestly and openly forward, and say—"We are opposed to the prevailing theories on the land question; we admit we are unable, in consequence, to command the support of the majority, but we appeal to the minority of the constituencies, who, we are sure, agree with us." (Hear.) Electors would not be driven to take advantage of the clause unless they pleased. (Hear.) Theoretically speaking, the chief objection to the clause was, that it did not apply to the whole colony—that it was limited to four constituencies. But, if the system worked well, it could be extended. Constituencies now returning two members could be so enlarged as to return three; and constituencies at present returning only one member each could be amalgamated, so that the united electoral district should have three representatives. In all countries where legislation had been really progressive, it had been tentative. An experiment was tried on a small scale, and when found to work well the principle was extended. (Hear.)

Mr. HIGINBOTHAM, after dealing with the objection that the clause would give the power of combined action to particular sects of politicians, and the argument as to the possibility of representing all opinions, expressed him-

self hostile to the proposed measure. *If the government had proposed Hare's system in its entirety, he would gladly have assented to the proposition; but for other and far more important reasons than the representation of minorities;* but it merely suggested the adoption in a mangled form of one feature of the system applied to four particular constituencies, and for which he had heard nothing urged which had any weight on his mind.

Mr. DUFFY said that the present clause was copied from the bill previously introduced by the member for Portland, to whom Mr. Mill had written to express his gratification that a representation of minorities was to be attempted. The principle of such a representation was the result of the best and most philosophical opinions. He adverted to Lord John Russell's proposal in the bill of 1854, and the interruption to the progress of reform caused by the Crimean War, and addressed himself especially to the arguments with regard to the force which might be acquired by the professors of religious or political opinions.

Mr. WOODS, admitting that, theoretically, it was correct that minorities should be represented, said the bill did not carry the principle out. It was possible that some opinions might not be represented in the House, but this was an evil which could not be obviated: they must stop somewhere, or else a minority of one intelligent voter might demand to be represented.

Mr. O'SHANASSY appealed to members, in considering this question on the high ground from which it deserved to be reviewed, to discard from their minds all thoughts of the effect of the clause upon local political parties. If they did so, whatever the present conclusion might be, the discussion could not be fruitless, for it would tend to educate the community. After replying to arguments of preceding speakers, he expressed his belief that the more the question was discussed and examined the more likely it was that at a future day a full system of representation would be brought forward by some government possessing the confidence of the country. He did not know any country in the world in which such a system could be more judiciously tried than in Victoria, a colony accustomed from its infancy to the exercise of political privileges. He hoped to see the day when public opinion would be so enlightened that, no longer seen through the narrow medium of local or sectarian jealousies, this most equitable scheme would be adopted with the full approbation of all thinking and right-minded persons.

Mr. BERRY opposed the clause. If the question of minorities were to be dealt with, it should be considered in all its bearings, and not upon a clause by which the principle was introduced in a mangled form. Hare's proposition was not before the House.

Captain M'MAHON regarded the representation of minorities as opposed to the great principle of constitutional government—the rule of the majority.

Mr. L. L. SMITH predicted that the adoption of such a clause would lead to anarchy, like that in America.

Mr. COHEN and Mr. ORR also opposed it in its principle.

Mr. FRANCIS, having referred to Hare's book, quoted the observations it contained on the minority clause in the English bill of 1854. (Pp. 14, 15.)

Mr. LEVI supported, and Mr. MCLELLAN, Mr. RAMSAY, and Mr. HOUSTON, opposed the clause.

The ATTORNEY-GENERAL replied.

The clause was ultimately negatived.

APPENDIX H.

THIS system was discussed in Frankfort in 1861, 1863, and 1864. See *Die Zeit*, 10th December, 1861; *Frankfurter Reform*, 15th May, 20th May, 24th May, and 31st May, 1863. The *Frankfurter Reform* of the 29th January, 1864, contains the following article by Dr. Gustav Getz, on the application of the system to the elections to the Legislative body (Gesetzgebenden Versammlung) of the City of Frankfort.

Zum Wahlgesetz.

Wenn das Dach unseres Hauses in Brand steht, sind wir wenig geneigt, an die zweckmässigste Einrichtung unseres Wohnzimmers zu denken; wenn die Geschicke des Gesammt-Vaterlandes einer verhängnissvollen Entscheidung entgegeneilen, fühlen wir wenig Stimmung für Beschäftigung mit Localfragen. Dennoch rückt der Zeitpunkt immer näher, an welchem die Verfassungsfrage und mit ihr ein neues Wahlgesetz auf die Tagesordnung unserer gesetzgebenden Versammlung kommen werden. Im Hinblick hierauf haben gerade jetzt die Herren Drs. Varrentrapp und Burnitz eine Methode veröffentlicht, durch welche sowohl der Mehrheit als der Minderheit eine ihrer Stärke entsprechende Zahl von Vertretern gesichert werden soll. Es ist hier nicht der Ort, in mathematische Erörterungen einzugehen. Von einer kundigeren Feder soll anderwärts nachgewiesen werden, dass die am Schlusse des Schriftchens aufgestellten mathematischen Formeln auf willkürlichen, nur in seltenen Fällen zutreffenden Annahmen beruhen, dass jedoch in manchen Fällen diese Methode, nicht wie die beiden Verfasser annahmen, ein mathematisch exactes, aber ein *approximativ* befriedigendes Resultat ergibt. Uebrigens beruht es auf einem Irrthum, wenn diese Methode sich als eine neue ankündigt. Dieselbe findet sich bereits in dem von den Verfassern

citirten Hare'schen Werke *pag.* 212 erwähnt (*thus, the vote at the head of the paper as* 1 *should be equal to* 2 *second votes,* 5 *fifth votes, and so on*); freilich ist sie daselbst verworfen, als den Zwecken, die Hare ins Auge gefaszt hatte und die weit über die blosse Vertretung der Minorität hinausreichen, nicht entsprechend. Wenn die Verfasser sich dennoch zur Aufstellung ihrer Methode veranlasst sehen und dabei bemerken, das Hare'sche System habe bisher mehr Gegner als Vertheidiger gefunden, so ist uns unklar, was so einsichtige Männer mit einer solchen Aeuszerung bezwecken? Ist unter den Gegnern etwa die grosse Masse derer, welche alles Neue anzweifeln, verstanden? Auf diese werden sie gewiss keinen Werth legen. Wollen sie die Stimmen aber wägen und nicht zählen, so hat vor Allem ein deutscher Staatsmann, dessen Autorität ihnen hochsteht, R. v. Mohl, das Hare'sche System bald nach seinem Erscheinen geradezu mit dem Ei des Columbus verglichen. Englische Staatsmänner haben es thatsächlich gebilligt und fast ganz unverändert in den Colonien, wo die Verhältnisse einer Neugestaltung günstig waren, einzuführen gesucht. [*The article here adverts to the Bills introduced into the Parliaments of Sydney and Melbourne.*]

Wir wollen den Leser nicht durch andere Beweise ermüden; wir freuen uns zu sehr, diese beiden Männer nach demselben Ziele hinstreben zu sehen, als dass wir eine nutzlose Polemik zu provociren gewillt sein könnten. Für Frankfurt wird ebenso wenig die Einführung ihrer Methode, als die unabgeänderte Einführung des Hare'schen Systems in's Auge gefasst werden; aus dem einfachen Grunde, weil sowohl nach ihrer Methode, als auch bei der Hare'schen, eine verhältnissmässig allzukleine Anzahl von Personen einen Vertreter ernennen könnte. Bei 3600 Stimmenden und 90 zu wählenden, könnten nach beiden Wahlarten je 40 Mann, die zu einer Partei vereinigt wären, einen Vertreter durchsetzen. Bei dieser Sachlage bedarf es der Modificationen, und solche lassen sich sehr leicht in schützender Weise treffen, wenn man die Gesetzentwürfe nachahmt, welche in Genf sowohl vom Advokaten Charles Bellamy, als von Hrn. A. Morin (*De la Représentation des Minorités, par A. Morin.* Genève, chez Jules Fick, 1862) vorgeschlagen worden sind. Mit den für Frankfurt anzubringenden Abänderungen hätte das Wahlgesetz, falls man die Zahl der städtischen Mitglieder des gesetzgebenden Körpers auf 90 festgesetzt, zu bestimmen:

1. Jedem Wähler steht frei, bei der Wahl für den gesetzgebenden Körper einen Wahlzettel, auf welchem 90 wählbare Bürger verzeichnet sind, in die verschlossene Stimmurne zu werfen und ist es gestattet, sich sowohl gedruckter als geschriebener Wahlzettel zu bedienen.

2. Jeder Partei oder Vereinigung von Gesinnungsgenossen steht das Recht zu, mindestens 3 Tage vor der Wahl einen Wahlzettel, auf welchem 90 wählbare Bürger verzeichnet sind, als Wahlvorschlag bei der Stadtkanzlei einzureichen.

Nur also eingereichte Wahlzettel (für welche bei der alsbald erfolgenden

Wahlhandlung von wenigstens 200 Wählern gestimmt worden ist*), haben Anspruch auf eine dem Zahlenverhältniss aller Abstimmenden entsprechende Zahl von Vertretern.

3. Diese Zahl wird ermittelt wie folgt:

a) Nachdem alle Stimmzettel abgegeben worden sind, setzt das Bureau die Stimmenzahl fest, welche für die Zutheilung eines Vertreters erforderlich ist. Diese Normalzahl ist ein 90tel ($^1/_{90}$) aller Stimmenden. Brüche werden nicht gerechnet.

b) So oft die Normalzahl in der Zahl der für einen Wahlvorschlag unabgeändert abgegebenen Stimmzettel enthalten ist, so viele Vertreter werden diesem Wahlzettel zugetheilt. Die Zutheilung erfolgt nach der Reihenfolge, in welcher die Namen der zu Wählenden auf den Wahlzetteln verzeichnet sind.

c) Namen, welche auf mehreren Wahlvorschlägen verzeichnet sind, gelten als von selbst gewählt, ohne dass dies die verhältnissmässige Vertretung der Listen, auf welchen sie stehen, beeinträchtigte.

4. Bleiben nach dieser verhältnissmässigen Zutheilung noch Mitglieder zu wählen, so werden diese nach der relativen Majorität aller abgegebenen Stimmen erwählt.

Ein solches Gesetz würde sich an die bisherige Uebung anschliessen, und nur rechtlich organisiren, was bisher stets thatsächlich stattgefunden hat; dass nämlich die Mehrzahl mit Parteizetteln, aber immer auch viele Bürger mit selbst verfassten Zetteln stimmen.

Es gäbe aber nicht jeder kleinen Colonie, vielmehr nur solchen Vereinigungen ein Recht auf verhältnissmässige Vertretung, welche wenigstens 200 Bürger für sich hätten. Es lässt keine Stimme verloren gehen, wahrt vielmehr denen, welche keiner Vereinigung angehören, dasselbe Recht, welches sie bisher besessen haben. Würden z. B. 3600 Bürger stimmen; die Partei A hätte einen Wahlvorschlag eingereicht, die Partei B gleichfalls. Für A hätten 1800, für B hätten 900 Wähler gestimmt und 900 sog. wilde Stimmzettel fänden sich in der Wahlurne: so wäre die Normalzahl 3600 dividirt durch 90 also 40. Die Partei A erhielte ihre 45 erstverzeichneten, die Partei B ihre 22 erstverzeichneten Vertreter, und die übrigen Vertreter, sowie die Suppleanten, würden wie bisher nach der relativen Majorität aller abgegebenen Stimmen erwählt. Auch an diesem Vorschlag mag noch manches zu ändern und zu bessern sein. Doch erscheint er uns als praktisch in Vermeidung aller bisher gerügten Misslichkeiten. Wir empfehlen ihn desshalb der Prüfung unserer Mitbürger. G. G.

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* Die Zahl 200 ist willkürlich gegriffen. Die eingeschaltete Bestimmung fehlt in den Genfer Entwürfen, ist hier aber aus dem oben angeführten Grund als Cautel nothwendig.

Extracts from the *Bericht des Ausshusses zur Berathung über Abänderungen der Verfassung*, Friday, February 12, 1864.

Die Wahlart ist die directe. Die Stadt und Sachsenhausen bilden einen Wahlbezirk. Jeder Wähler gibt einen Zettel mit 84 Stimmen ab. Gewählt ist, wer 350 Stimmen erhält. Auf jedem Zettel gelten nur drei Namen und zwar zunächst die drei obersten, dann die folgenden der Reihe nach, wenn die vorhergehenden bereits 3500 Stimmen auf sich vereinigt haben. — Die Wähler geben ferner in eine zweite Urne einen weiteren Zettel mit je 60 Namen für die Suppleanten. Diese werden nach relativer Stimmenmehrheit sämmtlicher Abstimmenden erwählt und zwar der meistbestimmte als erster Suppleant u. s. w. — Werden bei der ersten Abstimmung nicht sämmtliche 84 Mitglieder für den gesetzgebenden Körper erwählt, so treten die meistbestimmten Suppleanten als wirkliche Mitglieder in den gesetzgebenden Körper ein. DR. E. PASSAVANT.

Friday, March 25, 1864.

M. MAY. Die wichtigste Frage, welche wir zu entscheiden haben, ist diese: ob die gesammte Bürgerschaft, oder nur eine geschickt operirende Minderheit hier vertreten sein soll. Hr. Dr. Passavant hat einen Modus vorgeschlagen, der auch den Minderheiten eine verhältnissmässige Vertretung sichern will, und diesem Princip stimme ich vollständig bei, wenn ich auch die Modalitäten der Ausführung noch dahin gestellt sein lasse. Vorerst aber handelt es sich überhaupt nur um die Entscheidung über das Princip, und ich stelle daher den Antrag:

> Bei der Stimmenzählung ist so zu verfahren, dass die Minderheit eine Vertretung nach der Anzahl ihrer Stimmen im Verhältniss zur Gesammtzahl der abgegebenen Stimmen finde.

Die Versammlung soll der möglichst treue Ausdruck der Bürgerschaft sein, und dazu ist es erforderlich, dass die verschiedenen in der Bürgerschaft waltenden Ansichten ihren Ausdruck auch in der Versammlung finden. Die indirekte Wahl läszt nur die Ansicht *einer* Partei zur Geltung kommen, und das ist der Hauptgrund der geringen Betheiligung an den Wahlen, denn wer der bekannten Majorität nicht angehört, enthält sich lieber ganz der Wahl, da er doch nichts erzielen kann.

Dr. KUGLER. Es hat sich eine entschiedene Abneigung gegen die indirekten Wahlen gebildet, und ihre Miss-stände sind auch nicht zu verkennen. Nun aber frägt es sich, welche Art der direkten Wahlen den Vorzug verdient. Es gibt hier drei Wege: 1) nur *einen* Wahlbezirk—da wären die indirekten Wahlen noch vorzuziehen; 2) geographisch abgesteckte Wahlbezirke—was schon besser ist; und endlich 3) freiwillige Wahlbezirke, das heisst, es wird bestimmt, dass wenn so und so viel Bürger sich zur Wahl eines Mitgliedes vereinigen, ist es gewählt. Dieser

Modus allein entspricht der Billigkeit und sichert der Minderheit die ihr gebührende Vertretung.

Dr. Fuld ist gleichfalls für diese freiwilligen Wahlbezirke oder die verhältnissmässige Vertretung der Bürgerschaft. Wozu haben wir eine Mehrzahl von Vertretern, wenn es nicht ist, um die verschiedenen, in der Bürgerschaft waltenden Ansichten zum Ausdruck zu bringen? Hätte nur die Majorität das Recht auf Vertretung, dann genügte es zu diesem Zweck vollkommen, nur *Einen* zu schicken. Es gibt ebenso eine Tyrannei der Majorität, wie eine Tyrannei der Despoten. Jedes Wahlsystem, welches nur eine Vertretung der Majorität zulässt, ist eine solche Tyrannei. Der Ausspruch der Bürgerschaft, das Vorherrschen der wirklichen Majorität der Bürgerschaft in der Versammlung, und die Vertretung auch der Minderheitsansichten, das sind die Bedingungen eines guten Wahlgesetzes. Diesen Anforderungen entspricht mit Ausnahme des von Dr. Passavant gestellten Antrags, keiner der Vorschläge, am wenigsten aber das indirecte Wahlsystem; ebenso gut könnte man sagen, drei Männer sollen sämmtliche Abgeordneten wählen. Es ist ein Misstrauensvotum gegen die Bürgerschaft. Dr. Müller's Vorschlag geht hiervon ab, behält aber die Tyrannei der Majorität bei und verhindert sogar, dass auch nur, wie bei den indirekten Wahlen, durch die Gnade der herrschenden Partei Andersdenkende hereinkämen. Dr. Neukirchs Vorschlag strebt schon darnach, die Minorität zum Ausdruck zu bringen, allein die Abgränzung von Wahlbezirken ist ganz wohl ausführbar in einem grösseren Lande, nicht so aber in einer Stadt. Ferner ist nicht zu übersehen, dass bei den einfachen Bezirkswahlen die Majorität in der ganzen Bürgerschaft der Minorität unterliegen kann. Nur Eins ist sicher und gerecht: ein Wahlmodus, welcher den verschiedenen Ansichten eine proportionnelle Vertretung gewährt.

Dr. Passavant. Hier ist das Volk souverän, wir leben in einer demokratischen Republik. Der Grundzug derselben ist, dass das Volk selbst seine Angelegenheiten führt. So war es in Griechenland, so ist es noch in den Urkantonen der Schweiz. Nachdem dies unausführbar geworden, hat man zur Vertretung gegriffen; diese aber soll den Grundgedanken möglichst wiedergeben, sie soll ein Abbild der Landgemeinde im Kleinen sein. Lässt man nun blos die Majorität zu, so verschliesst man allen Andern den Mund, die ehedem, in der allgemeinen Volksversammlung, ihre Meinung geltend machen konnten, und dazu hat man kein Recht. Es ist dies aber nicht nur ungerecht, sondern auch unklug, denn es fordert die Unterdrückten heraus, sich auf anderem Wege die ihnen zukommende Geltung zu verschaffen und bedroht daher fortwährend die Sicherheit des Staates. Bisher war die Majorität, den Mangel des Wahlgesetzes fühlend, so vorsichtig gewesen, immer selbst einige Anhänger der Minorität in die Versammlung zu berufen; bei der directen Wahl in nur einem Bezirk wird auch das unmöglich, und der Minorität bleibt gar keine Vertretung. Die von mir aufgestellten Zahlen sind nicht wesentlich, es handelt sich zunächst nur um das Princip, dass der Minderheit eine verhältnissmässige Vertretung zuerkannt werde.

Dr. Müller. In der Landgemeinde würde immer die Majorität den Ausschlag geben; da nun aber die Landgemeinde nicht zusammen kommen kann und eine Vertretung wählen muss, so ist es ganz in der Ordnung, dass auch die Majorität diese beruft. Die Minorität kann auch in der Landgemeinde nicht mehr als ihre Ansicht aussprechen, dazu ist ihr jetzt in der freien Presse das Mittel geboten. Das Hare'sche System der Minderheitsvertretung ist so complicirt und künstlich, dass die Wähler es nicht verstehen werden. Sie sollen 84 Namen aufschreiben, von denen doch nur 3 zählen; das dürften nur Wenige begreifen. Die directe Wahl in Einem Wahlbezirk ist das Einfachste und unsern Verhältnissen Entsprechendste.

Dr. Neukirch. Die indirekte Wahl scheint selbst von Denen aufgegeben, die sie in der Commission mit aller Energie vertheidigten. Sie gehört nur in das Arsenal der Reaktion, die auch stets das direkte Wahlsystem durch das indirekte verdrängt hat. Obwohl ich dieser Hauptfrage gegenüber auf die von mir beantragten Wahlbezirke nur einen sekundären Werth lege, so glaube ich doch, dass durch diese Dasjenige, was von anderer Seite erstrebt wird, am kürzesten zu erreichen sei. Die Erfahrung anderwärts hat gezeigt, dass nie *eine* Partei in allen Wahlbezirken durchdringt, und so würden wir auch hier durch solche Abtheilungen den einflussreicheren Minderheiten eine Vertretung ermöglichen. Bei nur einem Wahlbezirk würde die Majorität Alles beherrschen.

Dr. Med. Friedleben. Es liegt der eigenthümliche Fall vor, dass ein sogenanntes Majoritätsgutachten eingebracht ist, dessen Vaterschaft von Allen verläugnet wird. Es hat heute gar keinen Vertheidiger gefunden. Ein zweiter Vorschlag geht dahin, dass die Minorität in der Bürgerschaft auch ihre Vertretung finden solle. Wo aber ist diese Minorität? Die Minorität kann nur so weit eine Vertretung verlangen, als ihre Candidaten mehr Stimmen haben, als gewisse Candidaten der Majorität. Man sagt: sie müsse doch auch gehört werden. Nun wohl, die Vertreter der Minderheit in der Constituante haben einzig nur intriguirt, und die jetzigen Vertreter der Minderheit in dieser Versammlung haben während der ganzen Debatten über die so wichtige Verfassungsfrage noch kein Wort gesprochen. Warum geben sie ihre Ansicht nicht kund? Das Bestreben der Minderheit kann immer nur sein, die Mehrheit zu werden. Wir haben uns jetzt nur über das Princip auszusprechen. Mit der Annahme des Princips der direkten Wahlart ist Alles geschehen, was jetzt zu geschehen hat, und ich beantrage, dass die Bestimmung über die näheren Modalitäten der Wahl einem besonderen Gesetz vorbehalten bleibe, denn diese Modalitäten werden den wechselnden Bedürfnissen und Ansichten gemäss Veränderungen erleiden, und es ist daher nicht gut, sie in die Verfassung selbst mit aufzunehmen.

Dr. Brannfels. Ich stimme dem ganz bei. Der Antrag des Hrn. Dr. Passavant ist ebensowohl unpraktisch, als unrichtig. Es erleidet keinen Zweifel, dass wir direkte Wahlen bekommen werden. Wenn nun unser Staat aus mehreren Provinzen oder Städten bestände, würde es wohl Niemand in den

Sinn kommen, das Hare'sche System vorzuschlagen. Bis jetzt hat es nur bei den Antipoden, in Australien und am Cap der guten Hoffnung Eingang gefunden. In einem grossen Staate ist es gar nicht durchzuführen. Ueberhaupt, bis wohin soll sich denn die Vertretung der Minorität erstrecken? Es kann doch nur Diejenige Anspruch darauf haben, welche sich geltend macht. Die jetzige Majorität in dieser Versammlung ist auch einmal die Minorität gewesen; sie war aber darum keineswegs mundtodt; sie hat sich gerührt, die Bürgerschaft überzeugt, und ist schliesslich die Majorität geworden. Das ist der einzig richtige Weg. Durch die vorgeschlagenen Versuche werden Sie nicht sowohl zur Vertretung von Parteien, als nur von Cliquen kommen. Einflussreiche Leute, die eine Anzahl Stimmen beherrschen, werden ihre Vertreter hereinschicken. Unbedeutende Minoritäten haben keinen Anspruch auf Vertretung, grössere allerdings sollten berücksichtigt werden. Man hat zu diesem Zweck Bezirkswahlen vorgeschlagen, und in der That lehrt auch die Erfahrung, dass in den verschiedenen Bezirken die verschiedenen Meinungen leicht die Majorität erlangen können. Allerdings gibt es für die Bezirke keine natürliche Abgränzung, diese wird immer willkürlich gezogen sein, allein die ganze Einrichtung hat grosse Vorzüge. Eine allgemeine Bürgerversammlung lässt sich nicht ausführen, wohl aber sind Bezirksversammlungen leicht einzuberufen, und vor diesen kann der Candidat seine Ansichten darlegen. Man hat zu Gunsten des Hare'schen Systems noch hervorgehoben, dass es eine regere Theilnahme der Bürgerschaft an den Wahlen mit sich bringen würde; das ist mir aber sehr zweifelhaft, denn es begünstigt die Bildung im Geheimen werbender Cotterien, während bei den Berzirkswahlen, wo die Meinungen sich offen gegen einander aussprechen können, die Theilnahme am meisten angeregt wird. Ich schliesse mich ganz dem Antrag des Hrn. Dr. Med. Friedleben an, dass für jetzt nur beschlossen werden möge: die Wahl erfolgt durch unmittelbare Abstimmung in mehreren Bezirken, über das Nähere bestimmt das Gesetz.

Da noch viele Redner zum Wort angemeldet sind, wird wegen vorgerückter Stunde die weitere Discussion vertagt.

Friday, April 1st, 1864.

Dr. Enyrim schliesst sich dem Antrag des Hrn. Dr. Passavant an. Wenn der Grundsatz aufgestellt wurde, dass nur die Majorität ein Recht auf Vertretung habe, so beruht das auf einer Verwechselung der Beschlüsse, welche von der Vertretung zu fassen sind, mit dieser selbst, welche nur die Landgemeinde darstellen soll. Unser altes Wahlgesetz war ein verspäteter Ausläufer des ständigen Princips und dieses ging von der Voraussetzung aus, dass die Interessen und Anschauungen in den verschiedenen Ständen andere seien und alle auf eine gleichmässige Vertretung Anspruch haben. Diese Voraussetzungen treffen heute nicht mehr zu, allein das früher so sorgsam gewahrte Recht auf Vertretung der verschiedenen Interessen und Ansichten besteht auch heute noch und muss seinen Ausdruck

in dem neuen Wahlgesetz finden, wie es ihn in dem alten gefunden hatte. Das nun sucht das Hare'sche System zu bewirken, und es ist nach dieser Seite hin das Ei des Columbus. Um sich gegen die befürchtete Bildung kleiner Coterien zu schützen, braucht man nur die zu einer Wahl erforderliche Stimmenzahl etwas höher anzusetzen, etwa auf 4—500. Man tadelt, dass dies System so komplicirt, ein Rechenexempel sei: die Gerechtigkeit ist aber nie einfach, und je mehr unsere Gesetze der Gerechtigkeit nach allen Seiten zu entsprechen suchen, umso komplicirter werden sie. Es kommt auch gar nicht darauf an, dass die grosse Masse genau verstehe, was hinter den Thüren der Wahlcommission vorgeht. Ein etwas schwieriges Wahlsystem wäre übrigens auch nur ein ganz gutes politisches Erziehungsmittel für den Bürger.

Hr. Dietz ist der Ansicht, dass nach Durchführung der Verfassungsreform die Parteifragen sich vermindern werden. Es gibt überhaupt nur noch zwei Parteien, die Fortschritts und die Stillstandspartei. Auch schon bei den früheren Wahlen hat es sich stets mehr um die Person als um die Partei gehandelt. Der Redner erklärt sich zunächst für das Hare'sche System, in zweiter Linie für die Bezirkswahlen und in dritter für den Antrag des Hrn. Vogtherr.

Dr. Fuld. Ich habe gefunden, dass Diejenigen, welche sich bisher gegen die proportionellen Wahlen ausgesprochen, ihre Berechtigung eigentlich anerkannt haben. Zuerst Herr Dr. Braunfels, der sich am eingehensten und behaglichsten darüber ausgelassen hat. Er hat geltend gemacht, dass dies System in einem grossen Staate nicht ausführbar sei, womit aber seine Ausführbarkeit in einem kleinen Staate, wie der unserige, indirect zugestanden ist. Ferner machte er es ihm zum Vorwurf, dass es noch nirgends eingeführt sei; allein alles Neue war vorher noch nicht da, und es kann uns gewiss nur lieb sein, wenn auch wir einmal mit etwas Gutem zuerst kommen. Man sagt, es würden sich Coterien bilden. Wenn man die Grenze zwischen Coterie und Partei scharf zu ziehen weiss, so bestimme man die zu einer Wahl erforderliche Stimmenzahl darnach. Man erkennt an, dass es Minoritäten gibt, deren Berücksichtigung seitens der Majorität von der Klugheit und Billigkeit geboten ist,—dann muss man aber diesen Minoritäten auch ein *Recht* zugestehen und sie nicht von der blossen Gnade der Majorität abhängig machen. Durch die Bezirkswahlen wird die Vertretung der Minorität, wie selbst der Majorität, dem blossen Zufall anheimgegeben. Wenn es der Zweck einer Vertretung ist, nicht blos Beschlüsse zu fassen, sondern die verschiedenen Ansichten zu hören und zu prüfen, so bleibt kein anderer Weg, als das Hare'sche System, mit denjenigen Modificationen, welche die zu ernennende Commission daran zu machen findet.

Dr. Jur. Friedleben. Wenn ich mich dem Antrag auf directe Wahlen angeschlossen, so geschah es nicht aus dem Grunde, weil ich diese Frage für eine principielle halte. Die Beispiele von Preussen, Hessen, Nassau einerseits und von Frankreich anderseits beweisen, dass indirecte Wahlen

eine weit unabhängigere und freisinnigere Vertretung ergeben können, als die directen. Die Wahl in nur einem Bezirk braucht durchaus nicht, wie man befürchtet, ein exclusives Ergebniss zu liefern. Wir haben hier zugleich eine politische und eine Gemeinde-Vertretung. Wenn die Erstere die Parteien scheidet, führt sie die Letztere wieder zusammen, denn sie bedingt die Berufung von Männern verschiedener Fähigkeiten. Die politischen Minoritäten haben als solche gar kein Recht auf Vertretung, denn die Repräsentation soll nur die öffentliche Meinung zum Ausdruck bringen, und diese ist in der Majorität gegeben. Wenn man der Mehrheit Abgeordnete der Minderheit aufdrängt, gründet man eine Tyrannei der Minorität. In Bezirkswahlen müsste man noch viel exclusiver verfahren, als bei der Aufstellung einer Wahlliste für nur einen Bezirk. Die Zahl unserer Mitglieder könnte allerdings vermindert werden, 60 wären ganz ausreichend. Den Landgemeinden wird die Zusammenlegung in einen Bezirk nur gut thun, zumal sie fortan das Recht haben werden, ihre Vertreter aus dem ganzen Staatsgebiet, nicht nur aus ihrer Gemeinde zu nehmen. Meiner Ansicht nach ist das Hare'sche System unrichtig im Princip und ungerecht in der Anwendung. Unrichtig, weil es *à priori* einen Satz aufstellt, der dem konstitutionellen Staatsrecht widerspricht, welches der Mehrheit die Leitung der öffentlichen Angelegenheiten zuweist. Der Volkswille soll entscheiden, das ist aber nicht der Wille der Minorität. Mit diesem System würden wir einen Rückschritt noch hinter das Drei-Klassensystem machen; es trägt die Gefahr in sich, die Bürgerschaft in ganz kleine Coterien zu zerreissen. Wir würden den traurigsten Missgriff machen, wenn wir dies principlose Princip hier in Frankfurt annähmen.

Hr. Rütten macht darauf aufmerksam, dass, wie hoch oder niedrig man auch bei dem Hare'schen System die zu einer Wahl erforderliche Stimmenzahl ansetzen möge, es bei geringerer Betheiligung an den Wahlen doch geschehen könne, dass die vorgeschriebene Anzahl von Abgeordneten gar nicht zusammenkomme.

Dr. Stern erklärt sich ebenfalls gegen das Hare'sche System. Es beruht auf dem Missverständniss einer Verwechselung der Minorität mit den Minoritäten. Der Minorität allerdings muss die Gelegenheit gegeben sein, sich geltend zu machen, aber sie darf sich nicht in Minoritäten auflösen. Wir würden bei den letzteren keine Gesammtvertretung haben, sondern nur eine Vertretung von lauter unbedeutenden Fraktionen. Solcher kleiner Gruppen können sich möglicherweise 84 bilden, und wir haben dann gar keine Vertreter der Gesammtheit mehr. Es ist überhaupt ein System zu verwerfen, welches die Wahl von einer freien That zu einer Manipulation macht. Die Bezirkswahlen haben den Vorzug, dass sie die Bürgerschaft zu einer lebhaften Betheiligung an den öffentlichen Angelegenheiten heranziehen. Sie sind die politischen Bildungsschulen in Preussen. Die Wahl in nur einem Wahlbezirk ist eine Täuschung. Die 84 Abgeordneten können nicht freigewählt, noch weniger discutirt werden.

Dr. VARRENTRAPP. Wenn es etwas Illiberales gibt, so ist es die Behauptung, die Minderheit besitze gar kein Recht, bis sie nicht die Mehrheit geworden ist. Es ist eben so unhistorisch als unmoralisch, dass eine Ansicht nicht eher gehört werden solle, als bis sie die Anerkennung der Mehrheit gefunden hat. Man schneidet damit aller Fortentwickelung, aller Belehrung eines Besseren den Weg ab. Wenn man ein Solches Princip durchführt, dann spreche man nur nicht mehr von Freiheit. Ursprünglich kamen die Menschen in der Familie, in der Landgemeinde zusammen und tauschten ihre Ansichten aus. Als nun dies in Folge ihrer Vermehrung und Ausbreitung nicht mehr thunlich war, sandten sie Vertreter, und nun will man sagen: bisher habt ihr das Recht gehabt mitzureden, mitzustimmen, von heute an hört dies auf und ihr habt nur noch das Recht zu wählen. Die Vertretung verdient nur dann diesen Namen, wenn sie ein möglichst treues Bild der Vertretenen selbst ist. Das bezweckt das Hare'sche System, in dessen Einzelheiten einzugehen überflüssig erscheint, sobald man das Princip selbst verwirft. Die Zulassung von Vertretern der Minoritätsansicht aus blosser Gunst, ist ignobel für beide Theile. Ich erkläre mich für die Beibehaltung der zwei ersten Theile des Passavant'schen Antrags und wünsche, dass statt des dritten einfach gesagt werde: das Gesetz bestimmt den Wahlmodus auf Grund des Hare'schen Systems.

Dr. BRAUNFELS. Das Hare'sche System beruht darin, dass man die wirklich Wählenden durch die zu Wählenden dividirt und darnach die zur Wahl erforderliche Stimmenzahl festsetzt. Nun gibt man von vorne herein zu, dass dies nicht angehe, dass man eine willkürliche höhere Zahl annehmen müsse, und fällt damit gleich selbst wieder von dem Princip ab. Wir dagegen sagen, eine Meinung hat nur dann das Recht auf Vertretung, wenn sie die Mehrheit, sei es im Staate oder in dem Bezirk, besitzt, und haben dabei die Praxis aller Länder für uns. Wenn aber, wie es das Hare'sche System erstrebt, *alle* Meinungen vertreten sein sollen, so führte das zu einer höchst verderblichen Zersplitterung, während doch das Ziel sein muss, die Ansichten möglichst zu koncentriren. Dr. Varrentrapp nannte es ignobel für beide Theile, wenn die Majorität freiwillig die Minorität berücksichtigt; ich finde darin vielmehr einen Beweis des Vertrauens, der beide Theile ehrt. Die Bezirkswahlen bieten nicht nur die Möglichkeit, sondern sogar die Wahrscheinlichkeit, dass jede namhaftere Minoritätsansicht da oder dort zur Geltung kommt.

Dr. KUGLER. Es ist von den Vertheidigern des einen Wahlbezirks geltend gemacht worden: die Majorität allein habe zu entscheiden, mit der Wahl sei Alles abgeschlossen, von da ab habe die Minorität nur noch zu schweigen. Dadurch würde die Vertretung selbst nur noch zu einer Abstimmungs-maschine. Ich bin anderer Ansicht. Die Bürgerschaft schickt deshalb viele Vertreter, damit sich hier die verschiedenen Ansichten aussprechen, dass darüber deliberirt und nicht nur abgestimmt werde. Jede einigermassen bedeutende, redliche Minorität muss demnach hier ihren Ausdruck finden. Eine räumliche Bezirksabgränzung bietet

nicht die entfernteste Sicherheit für ein solches Resultat der Wahlen, diese ist nur in den freiwilligen Wahlbezirken des Hare'schen Systems zu finden.

Dr. Reinganum. Um gleich den Beweis zu geben, dass ich mich nicht als blosse Wahlmaschine betrachte, erkläre ich, dass mich die ganze Discussion von meiner ersten Ansicht, nach welcher ein indirectes Wahlsystem für uns am zuträglichstem wäre, noch nicht abgebracht hat. Alle die andern vorgeschlagenen Systeme führen dahin, dass die Wahlzettel von Parteiausschüssen gemacht, von den Parteigenossen angenommen werden. Ob ich aber Andere den Wahlzettel entwerfen lasse, oder Vertrauensmännern die Wahl selbst übertrage, ist ganz dasselbe. In Kurhessen hat das wiedergewonnene directe Wahlrecht nur einen Democraten, Trabert, in die Kammer gebracht, während die indirecten Wahlen in Preussen ein ganz anderes Resultat ergeben haben. Das Hare'sche System will intellektuelle Bezirke. Wenn darnach in Bornheim eine Anzahl Kinder Gottes sich zusammenthun, haben sie das Recht, das Kind Gottes zu wählen. Dieses System stiehlt der Majorität ihre Stimmen, um sie der Minorität zu geben. Wenn Lord Palmerston 20,000 Stimmen hat, worin der Regierung ein werthvolles Vertrauen ausgesprochen ist, kommt Mr. Hare und sagt: du brauchst nur 1000 Stimmen, die übrigen 19,000 gebe ich Anderen.[1] Dies System treibt die Zersplitterung zum Excess. Wie soll es anderseits mit den Bezirken hier werden? Um eine verhältnissmässige Zahl Bezirke herzustellen, müszte man nicht mehr Quartierwahlen, sondern Gassenwahlen einführen. Man hofft, die Wähler und Candidaten werden zusammen kommen und sich gegenseitig Kopf und Nieren prüfen. Ich glaube das nicht; wir haben sehr viele tüchtige Männer, die doch nicht hintreten und in vorhinein versprechen möchten, wie sie in jeder möglichen Frage stimmen würden. Dr. Varrentrapp nannte es ignobel, wenn die Majorität Männer der Minorität freiwillig beruft. Als seine Partei am Ruder war, hatte sie mehrere Jahre ganz exclusiv gewählt, dann aber zuerst drei Demokraten mit aufgestellt. Wir sind auch gekommen, und weder sie noch wir haben das ignobel gefunden. Eine Verminderung der Mitgliederzahl wäre sehr wünschenswerth, soll dies aber nicht sein, so möchte ich, um aus allen den Quälereien herauszukommen, vorschlagen, dass man in drei Wahlgängen jedesmal 28 Mitglieder wählen lasse.

Wegen vorgerückter Zeit wurde die Discussion hier abgebrochen und auf die nächste Sitzung vertagt.

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[1] Dr. Reinganum overlooks the fact that Lord Palmerston would, from the public declaration of the votes polled, acquire all the moral weight of the proffer of 20.000 votes, while the appropriation of 19,000 of them to the other candidates named lower on the papers, so far from lessening that weight, will probably contribute to the election of *nineteen* of his supporters, and add therefore greatly to his power in the representative body. See, on this point, p. 255, n.

Friday, April 8, 1864.

Die Versammlung geht nunmehr an die Fortsetzung der Verhandlung über das Wahlgesetz.

Nach einer persönlichen Bemerkung des Hrn. Dietz ergreift Hr. May das Wort zur Vertheidigung des Hare'schen Systems. Dem Prinzip, dass der Minorität eine entsprechende Vertretung zukommt, muss Jeder beistimmen, mag er sich auch mit den Vorschlägen zur Ausführung desselben nicht einverstanden erklären. Zu den Lasten des Staates, zu den Steuern, zur Conscription u. s. w. zieht man die Minorität heran, da ist sie gleichmässig *verpflichtet*, aber von der Berathung will man sie ausschliessen, gleich *berechtigt* soll sie nicht sein. Es wird so grosses Gewicht darauf gelegt, viele Stimmen zu bekommen; damit geht es aber doch manchmal eigen zu. Bei den Wahlen zur Gewerbekammer hatten wir einen Namen auf unserer Liste, der sich auch auf der Liste unserer Gegner befand, und dieser Einzige wurde demnach einstimmig gewählt. Ein besonderes Zeichen des Vertrauens hierin zu sehen, wäre vielleicht sehr unbedacht. Mein Antrag geht dahin, dass man zuvor alle Namen, die nicht wenigstens 200 Stimmen auf sich vereinigen, als zersplitterte Wahlen ausscheide, und den andern Parteien die auf sie entfallende Abgeordnetenzahl nach Verhältniss ihrer Stärke zuschreibe.

Dr. Leykauf erklärt sich ebenfalls für das Hare'sche System. Nach dem Axiom der Gegner derselben hat nur die Majorität das Recht zu herrschen und demnach auch allein Vertreter in die Versammlung zu senden. Das Erste ist richtig, das Zweite aber falsch. Die Majorität hat nicht das Recht, der Minorität das Wort zu verwehren. Das wichtigste Recht des Bürgers, das Recht des freien Wortes von der Tribüne will man von der Gnade oder Politik der jeweilig herrschenden Partei abhängig machen. Das Hare'sche System wird die Theilnahme der Bürgerschaft an den Wahlen, die so beständig abgenommen hat, auf's Neue beleben.

Dr. Sauerländer. Die Frage, ob direkte oder indirekte Wahlen, scheint entschieden, es handelt sich also nur um die näheren Bestimmungen. Die Wahl in nur einem Bezirk führt zu einer Tyrannei der Majorität. Die ganze Vertretung wird zu einem blossen Parteiorgan. Die schwächeren Parteien ziehen sich, um einer sicheren Niederlage auszuweichen, von den Wahlen zurück, und so erkaltet die Theilnahme für das wichtigste politische Recht der Bürgerschaft. Auch im Hare'schen System gebietet die Parteidisciplin die Annahme von Wahllisten, auf denen sich Namen befinden mögen, die man nicht frei wählen würde. Die Bezirkswahlen empfehlen sich am meisten. Hier ist die Möglichkeit eines lebhaften politischen Ringens geboten und die Minorität in dem einen hat die Aussicht des Sieges in dem andern.

Hr. J. Rütten stellt den Antrag, dass die Zahl der städtischen Abgeordneten auf 72 vermindert werde, doch wird dieser Antrag bis zur Berathung des betreffenden Gesetzes vertagt.

Nachdem noch die Hrn. Dr. Neukirch und Dr. Reinganum ihre respectiven Anträge vertheidigt, wird zunächst der von Hrn. Dr. Kugler formulirte Antrag auf Einführung des Hare'schen Systems, dass nämlich Jeder als gewählt betrachtet werden solle, der eine näher zu bestimmende Zahl der von sämmtlichen Wählenden abgegebenen Stimmen erhalten hat, zur Abstimmung gebracht und abgelehnt. Sodann wird der allgemeine Grundsatz: Die Wahlart ist die direkte, mit grosser Stimmenmehrheit angenommen; und nach Ablehnung der Anträge des Hrn. Dr. Med. Friedleben, dass über die Art der Ausführung das Gesetz bestimme, und des Hrn. Dr. Braunfels, dass die Abstimung in mindestens 3 Bezirken stattfinde, über das Weitere aber das Gesetz bestimme, der Antrag der Hrn. Dr. Neukirch und G. Hoffmann, dass die Stadt in *acht* Wahlbezirke getheilt werde, mit 35 gegen 27 Stimmen *genehmigt*.

Ferner noch erklärt sich die Versammlung dafür, dass jede der sieben Landgemeinden einen Wahlkreis für sich bilde, und dass die Abstimmung in der Stadt wie auf dem Lande eine geheime sein solle, während die Fragen, ob absolute oder relative Majorität zur Wahl erforderlich sei und ob Suppleanten gewählt werden sollen, vorerst ausgesetzt bleiben.

Appendix I.

The following extract is from an article from the pen of M. Louis Blanc, which has had a wide circulation, and excited much attention in France:—

Le peuple, ce n'est pas la *pluralité*, c'est l'*universalité* des citoyens: d'où vient donc qu'on parle toujours de la souveraineté du peuple, comme si le PEUPLE était un être simple, unique, immuable, dont on puisse dire ce qu'on dirait d'un individu: IL veut ceci, IL ne veut pas cela?

Quant à la souveraineté, il serait temps de s'entendre. S'il est vrai que d'après Hobbes, d'après Rousseau, d'après tous les publicistes qui ont écrit sur la matière, d'après le dictionnaire, d'après l'usage, elle soit le pouvoir suprême, celui dont tout relève, il est clair que son essence est d'être absolue.

Mais si, étant absolu, un pareil pouvoir n'était pas incontestablement juste et regardé avec raison comme infaillible, loin d'être légitime, loin de constituer un droit, il aurait l'odieux caractère d'un fait écrasant, et la souveraineté serait infâme. Qu'une iniquité soit commise au nom du souverain, fût-ce à l'égard d'un seul homme, la souveraineté disparaît comme principe, et ne subsiste plus que comme force. Et, n'est-il pas certain, n'est-il pas historiquement prouvé qu'un seul homme peut, à un moment donné, sur une question donnée, avoir raison contre cent mille hommes, contre un million d'hommes, contre tous les hommes, moins lui?

Ainsi donc, pour que la souveraineté, dans le sens absolu qu'on attache

à ce mot, fût autre chose qu'une pure abstraction au point de vue du droit, il faudrait qu'elle répondît en fait à l'idée d'*universalité;* qu'il y eût unanimité d'idées, de sentiment; que toute pression du plus grand nombre sur le plus petit pût être écartée par la communauté des intérêts et l'harmonie des volontés. Touchons-nous à la réalisation de ce rêve d'or? Il est sans fond l'abîme qui nous en sépare.

Que faites-vous donc, vous qui prétendez investir du caractère qui conviendrait au *gouvernement du peuple par lui-même* ce qui n'est, et ne saurait être que le *gouvernement d'une partie du peuple par une autre partie*? Vous faussez la notion du droit; vous transportez à la *pluralité*, qui est exposée au malheur d'être injuste, le pouvoir de l'*universalité*, qui ne peut pas être injuste, parce qu'on ne l'est pas envers soi-même; vous mettez le *relatif* à la place de l'*absolu;* vous mutilez le souverain, et en lui dérobant son nom pour le donner à ce qui n'est pas lui, vous courez le risque de consacrer la tyrannie!

Il faut quelque chose qui empêche le droit des plus nombreux de trop ressembler au droit des plus forts; quelque chose qui serve à distinguer avantageusement l'état de société, où l'on se compte, de l'état de nature, où l'on se bat; quelque chose qui protége la liberté contre la substitution possible du pouvoir d'un chiffre à celui d'un coup de massue; quelque chose enfin qui fasse que la démocratie cesse d'être un régime de privilége en faveur du nombre. La majorité doit avoir plus de représentants que la minorité, fort bien; mais s'ensuit-il, comme dit M. John Stuart Mill, que la minorité n'en doive pas avoir du tout? Eh bien, c'est pourtant ce qui arrive sous l'empire du système qui ne permet aux électeurs de voter que pour le candidat qui se présente dans le district électoral auquel ils appartiennent. Le représentant élu pour le district est celui de la majorité, et le vote de la minorité se trouve n'avoir pas plus de valeur, l'élection faite, que si la minorité n'existait pas.

Cela est-il équitable? cela est-il conforme à l'intérêt, bien entendu, de la société et au principe de l'égalité démocratique? Il y a là manifestement un mal qui appelle un remède. La conviction que ce mal est considérable, que ce remède est nécessaire, me fait un devoir de vous exposer le système au moyen duquel M. Hare a cherché à atteindre ce but important, et éminemment démocratique: LA REPRÉSENTATION PROPORTIONNELLE DES MINORITÉS.

An explanation of the method then follows.

Le mécanisme en est beaucoup moins compliqué qu'on ne serait tenté de le croire, au premier abord. En réalité, l'opération sur laquelle il repose n'a rien de plus difficile que le triage des lettres à la grande poste.

Quant à sa portée politique et philosophique, elle doit vous frapper.

Là où il n'y a pas égalité de représentation, on peut poser hardiment en fait qu'il n'y a pas de démocratie. L'essence de la démocratie, c'est l'égalité; et partout où les minorités risquent d'être étouffées, que dis-je?

partout où elles n'ont pas leur influence proportionnelle sur la direction des affaires publiques, le gouvernement n'est au fond qu'un gouvernement de privilége, au profit du plus grand nombre. Contre ce mal, le système de M. Hare fournit un remède.

On répondra peut-être que, dans le mode d'organisation adopté jusqu'à ce jour, la minorité ne reste jamais sans représentants, parce qu'il arrive que le parti en minorité dans un collége est en majorité dans un autre, ce qui tend à rétablir la balance.

Mais une pareille compensation, outre qu'elle n'a rien de certain et rien d'exact, est évidemment contraire à tous les principes du régime représentatif. L'étouffement de la minorité ici ne cessera pas d'être regrettable parce qu'il y aura eu étouffement de la minorité ailleurs en sens inverse. Un mal donné pour correctif à un autre mal ne saurait tenir lieu de remède. Ce qui importe, c'est que la voix de chaque électeur compte à l'homme de son choix, du moins autant que possible. Quoi ! je nomme Pierre à Paris, et je dois me tenir pour bien et dûment représenté si Paul est nommé à Bordeaux ! Passe encore, si le pays n'était divisé qu'entre deux grands partis se disputant le pouvoir, et en présence dans chaque collége ! Mais en dehors de ces deux partis, je puis appartenir à une opinion dont il me plairait fort de préparer l'avenir ; je puis faire partie d'une minorité éparse dans le pays, et qui, bien que trop faible pour l'emporter dans un collége quelconque, serait cependant assez forte pour former une section du corps électoral, si les membres qui la composent votaient ensemble ; je puis enfin vouloir pour mandataire, d'accord en ceci avec beaucoup d'électeurs répandus çà et là, un homme sans influence locale, sans relation avec les partis en vue, sans engagement avec les opinions du jour, mais d'un caractère élevé et d'un esprit aussi supérieur qu'indépendant. Dans ce cas, je le demande, à quoi me servira ma qualité d'électeur ? Il faudra, ou que je donne ma voix à un homme qui ne représente mon opinion que très imparfaitement, et alors mon vote est à moitié perdu, ou que je m'abstienne, et alors, il est perdu tout à fait.

Il est vrai que le système de M. Hare est loin d'assurer aux minorités une garantie complète, en ce sens qu'il laisse sans organe parlementaire toute minorité qui n'atteint pas le nombre minimum de votants requis pour l'élection d'un député. Ainsi en supposant que la Chambre se compose de 650 membres, et qu'il y ait 6,500,000 électeurs, ce système n'empêcherait pas toute minorité au dessous du chiffre de 10,000 d'être sans organe dans la législature. Mais c'est là un malheur inhérent à la nature des choses. Le nombre des sections électorales est fatalement déterminé par le nombre des députés à élire. Et, d'autre part, il est assez naturel qu'une opinion ne pèse dans la balance des destinées publiques, que lorsqu'elle se trouve avoir acquis un suffisant degré d'importance numérique.

Au reste, je n'entends pas dire que le système de M. Hare soit parfait ; mais ce qui est sûr, c'est qu'il offre des avantages nombreux, et de l'ordre le plus élevé.

Il assurerait la représentation, proportionnellement au nombre de chaque section du corps électoral. Toute minorité serait représentée, pourvu qu'elle se composât d'autant de citoyens qu'il en faudrait pour faire un député, eu égard au nombre des membres à élire.

Chaque minorité locale pouvant s'unir par ses votes à d'autres minorités locales éparses dans tout le royaume, et atteindre de la sorte le chiffre voulu pour l'élection d'un représentant, nulle opinion de quelque importance numérique ne risquerait d'être réduite au silence, ou désarmée.

Les électeurs n'étant plus forcés, ou de voter pour un candidat de la localité, alors même qu'ils ne voudraient pas de lui, ou de s'abstenir, et pouvant donner leur voix aux hommes d'une réputation nationale dont ils partagent les principes, une place parmi les représentants du peuple serait réservée aux grands esprits, aux citoyens vraiment illustres, aux caractères indépendants : il ne serait plus indispensable, pour être élu, de se faire l'instrument d'une coterie influente ou l'esclave d'un parti.

Chaque vote aurait toute la valeur qu'il doit et peut avoir.

Chaque membre de la Chambre représenterait un corps électoral, disséminé peut-être, mais unanime.

Par cela même, le représentant et le représenté seraient identifiés l'un à l'autre.

Ce qui serait représenté à la Chambre, ce serait, non plus des pierres, mais des hommes.

Et toutefois, le principe de la représentation locale serait respecté dans une juste mesure, puisque dans tout collége où la majorité des votants égalerait ou dépasserait le chiffre requis pour l'élection d'un député, il ne tiendrait qu'à elle d'avoir un représentant local.

Dans chaque collége électoral, la majorité serait nécessairement amenée à fixer son choix sur le plus digne, parce que son candidat préféré aurait à soutenir la concurrence, non plus seulement du candidat de la minorité, mais de tous les hommes distingués sur toute la surface du pays.

Dans la Chambre, les représentants de la majorité ayant devant eux les organes les plus distingués de chaque ordre d'idées, seraient contraints, pour les combattre, d'étudier les questions sérieusement et de penser, ce qui élèverait le niveau de l'intelligence générale.

Enfin, la majorité prévaudrait, la démocratie règnerait; mais en même temps une issue serait ouverte à chaque opinion dissidente, et un point d'appui ménagé au droit des minorités : droit non moins respectable dans sa sphère que celui des majorités dans la sienne, droit sacré, lui aussi, et qu'un membre fameux de la Convention revendiquait en ces termes, le 28 décembre 1792, aux applaudissements du peuple qui remplissait les tribunes : " Sidney, mort pour le peuple, était de la minorité. Socrate était de la minorité quand il avala la ciguë, et Caton quand il se déchira les entrailles."

See, also, note to p. 161, 3rd ed. of *Mill's Considerations on Representative Government*, on the opinions by other continental writers.

Appendix K.

Discussions in Holland and Belgium.

The question at the head of the Amsterdam programme of the International Congress for the Promotion of Social Science, in 1864, was, "*Quels sont les moyens les plus pratiques, dans un gouvernement représentatif, pour assurer la liberté des élections et la sincérité des votes.*"

This method was brought before the Congress by M. Rolin-Jacquemyns, who thus states the result:—

"Pour parler franchement, il lui parut que la première impression produite par son exposé, sur les esprits non prévenus, était un étonnement mêlé de défiance, et une assez vive tentation de rejeter d'emblée tout le système, comme entaché d'une nouveauté excessive. Bientôt cependant on discuta. Peu à peu la discussion, de dédaigneuse qu'elle était, devint sérieuse et approfondie. Des défenseurs chaleureux et convaincus se présentèrent. Bref, on finit par trouver que la chose valait au moins la peine d'être examinée, et l'on nomma une commission chargée de faire un rapport, en général, sur les solutions proposées ou à proposer en réponse à la première question du programme, et en particulier sur le mérite du système Hare."

M. Rolin-Jacquemyns has since published a work (*De la Réforme électorale*, Muquardt, Bruxelles, 1865), the third chapter of which contains an able synopsis of this system, and a summary of its advantages (pp. 115-119). The following are extracts from the latter:—

"1. Diminution des tentations de fraude et de corruption chez les candidats. 2. Une fois l'élection soustraite aux vicissitudes d'une popularité de clocher, on ne verrait plus, comme de nos jours, les hommes qui représentent le plus fidèlement, dignement une grande opinion, exclus du parlement par une petite majorité locale. 3. Les déclarations de principe, habilement équivoques, où l'on exagère la partie de ses opinions qui est de nature à plaire au grand nombre, où l'on dissimule le reste, ces promesses que l'on sait impossibles, ces imputations que l'on sait téméraires à l'égard du candidat opposé,—toute cette mise en scène deviendrait inutile si, au lieu de s'adresser à un public restreint, on s'adressait aux partisans inconnus qu'une opinion, franchement avouée, éloquemment défendue, ne peut manquer de concilier dans le pays entier. 4. Le choix des électeurs ne serait plus restreint entre deux nuances de candidats, qui souvent leur sont personnellement inconnus, ou qui leur déplaisent également. Mais ils seraient appelés à se prononcer avec discernement, entre tous les candidats possibles, à les classer dans un certain ordre de préférence, et ils seraient presque assurés que chacune de leurs désignations aurait une valeur réelle. 5. En même temps que le sentiment de la responsabilité et de la dignité individuelle augmenterait chez l'électeur, il serait entraîné à faire un usage

de plus en plus grand du principe de l'association en matière politique. L'influence de l'individu cesserait de s'arrêter aux limites, parfaitement arbitraires, d'une circonscription électorale. Du moment qu'une idée, un principe ou un intérêt sérieux voudraient trouver place au parlement, il leur suffirait de recruter des adhérents indistinctement parmi toute la masse du corps électoral. Prenons pour exemple la question du libre-échange. Combien de temps n'a-t-elle pas tardé à se faire jour! Partout, dans les arrondissements les plus riches, les plus populeux, elle rencontrait une coalition aveugle de toutes les industries. Partout les instincts conservateurs conspiraient pour étouffer à leur naissance des minorités encore imperceptibles. Il a fallu des années de persévérante énergie pour amener la thèse du libre-échange à être soutenue à la tribune. Avec le système de M. Hare, cette thèse eût probablement trouvé, dès le début, un défenseur officiel et convaincu. Il en est et il en sera de même de toutes les vérités nouvelles, économiques ou autres."

Referring to the work of M. Morin (p. 16, n., and Appendix A, p. 295) M. Rolin Jaequemyns says:—"Il est permis de croire que son idée, si elle avait pu être suivie, aurait épargné à sa patrie la sanglante échauffourée de septembre. Car le système a précisément pour but d'éviter la situation qui, à Genève, a produit les troubles, savoir: le défaut d'homogénéité entre le groupe des représentants et le groupe des représentés."—(P. 9.)

In his first chapter M. Rolin-Jaequemyns discusses the "Projet de loi sur les fraudes en matière électorale, présenté le 15 novembre 1864, par le Gouvernement Belge aux Chambres Législatives," and amongst other things combats the suggestion which had found some advocates at the Amsterdam Congress, that it should be made compulsory on every elector to vote. Such a proposal had also been maintained by M. Eugène Delattre, an advocate of Paris, in his *Devoirs du Suffrage Universel;* and by M. Albert Gloss, as an amendment of the Constitution of the United States (*Das Leben in den Vereinigten Staaten.* Leipsig, 1864), which he compares with the Athenian law (p. 30, and see *ante*, pp. 251–2). The second chapter examines the question of the suffrage in a manner in which it has been rarely treated (pp. 50–73), and a section treats of the political education of the electors:—"Des efforts permanents à exercer sur l'électeur pour le mettre à même de comprendre sa mission" (p. 87). The same chapter discusses the provisions necessary for secret voting, which the author seems to think desirable (pp. 77–82).

I have stated elsewhere (pp. 139–147) some of the grounds on which I deprecate the introduction of the ballot. There would be nothing absolutely irreconcilable with the ballot in this method of election, and with little alteration of the proposed rules, secret votes might be admitted; but I confess I have no disposition to undertake the adaptation. The aim is to elevate the moral and intellectual character of the voter, and I think that it is personally degrading to him to be obliged to shrink from the performance of this great act of national sovereignty except under a cover, and in darkness. *The workman is of infinitely more value than the work;* and if it cannot be

done except under such conditions, it is better that he should not be required to do it. I have, however, shown that the act of voting can be performed under conditions which will give it a moral value of so high and sacred a character that the general opinion of society will as surely protect a voter in its independent exercise, as it would at this moment guard the sanctity and virtue of his home from violation by any one, however powerful; even meteing its indignation by the height of the rank or of the greatness of the power which is so attempted to be abused. Instead of contriving how we can best conceal weakness and palliate infirmity, let us rather turn to the remedy which promises strength.

One part of the new Belgian *Projet de Loi* is curious. It enacts that the voter on his way to the bureau is to pass through a passage of six mètres (about 6½ yards) in length, closed in by a door at each end, and two mètres (about 2⅛ yards) in height; that no voter is to approach the table where the bureau is situated, before his name is called, and that he shall retire directly he has placed his bulletin in the box.

On this provision, M. Rolin-Jacquemyns remarks,—(p. 82) "Qui croirait que la mesure proposée en Belgique, en l'an de grâce 1865, pour protéger les abords du scrutin, était connue et appliquée sous l'ancienne république romaine? Les savants les plus autorisés (Becker, Rœm. Alt. t. ii. pp. 3, 102; —Rein das Criminalrecht der Römer, pp. 709 et ss.) nous apprennent, textes en mains, qu'aux abords de chaque centurie, c'est-à-dire, de chaque section électorale, on avait eu l'idée, précisément pour sauvegarder la liberté du votant, de construire un pont (pons) ou avenue spéciale, cloisonnée de part et d'autre, c'est-à-dire un véritable couloir. Ces avenues s'étant trouvées trop larges, de façon que plusieurs électeurs s'y pressaient à la fois, Marius les fit rétrécir. Mais il paraît que cette mesure ne fut pas encore suffisante pour empêcher la violence et la corruption. Car Plutarque nous apprend que les adversaires de Caton d'Utique, voulant empêcher son élection comme préteur, se mirent les uns à distribuer de l'argent, les autres à entraver la remise des votes. Du reste, toute la législation sur les délits et crimes électoraux chez les Romains est des plus curieuses et, il faut bien l'ajouter, des plus tristes. Nous y voyons la décadence des mœurs renchérir sans cesse sur la sévérité impuissante du législateur, depuis les beaux jours de la République, où l'on se bornait à défendre aux candidats, comme un acte contraire à leur dignité, d'aller quêter des suffrages sur les marchés et dans les réunions, jusqu'à l'époque où César établissait, en plein Champ de Mars, des comptoirs où l'on payait les votants et où Pompée, *suarum legum auctor idem ac subversor* (Tac. *Ann.* t. iii. p. 28), profitait de sa toute-puissance pour faire contre ses adversaires des lois qu'il violait lui-même."

The great lesson surely is, that no penal laws,—no protective machinery,—no negative contrivances, which may threaten or surround the voter, are sufficient to inspire or to maintain such a patriotic feeling, or ruling sentiment of regard for the public good, as shall be sufficient to overcome the sinister efforts of influential individuals or classes to convert the powers of

government into means of personal aggrandisement or profit. It can only be accomplished by the operation of a new, a positive, and an active principle of a higher nature implanted in the mind of the individual voter himself. Instead of giving mechanical aid, to secure the uncontrolled performance of an act which is reduced to one of small importance to himself, let the act be made as interesting and important as it can be, and give the voter a scope and freedom which shall awaken the emotions and call into exercise all the efforts of his moral and intellectual being. I can conceive nothing with so great a tendency to produce this result, as to place in competition before the voter, not merely one or two mediocrities, but every quality and talent existing among his contemporaries calculated to win his respect or excite his admiration.

APPENDIX L.

United States of America.

THE earliest notice of this system in America appeared in the *Philadelphia Inquirer* in 1860, in which the plan is thus introduced :—

"Its leading feature is, that a *unanimous* constituency is necessary to the election of a representative. Nor is this unattainable, as at first sight it appears to be. It is rendered feasible by simply taking away the restraint which at present limits a voter to a choice between the two local candidates.

"Let us suppose, for the sake of illustration, that there is to be held an election of Congressmen for this State. There are twenty-five members to be elected, and half a million of votes will be cast; the quotient, twenty thousand, shows the number of votes necessary to elect a member. If every voter is at liberty to select according to his preference from all the candidates in the State, there can be no doubt that the prominent candidates of either party will secure the requisite twenty thousand votes. In all probability they will receive more than that number; and this surplus would be thrown away, were it not for the provision that each vote should be a list of the members desired by the voter, and in the order of his preference for them. Thus, if the first member on his list already has the requisite number, that name should be stricken from the list, and the vote will then count for the second in order, who is the next choice of the voter, and so on. The admirable simplicity which characterizes this plan is likely to make us ignore the wonderful results that would flow from its adoption. Let us consider what would be gained by its introduction.

"First, it starts out with the fundamental idea, now almost lost sight of in the abuse of the system, that the representative body should reflect exactly

the feelings and opinions of the community which it *represents*. Under this plan every opinion is represented, and that, too, just in proportion to the generality with which it is entertained. The only limitation is, that those holding a given opinion should be sufficiently numerous to entitle them to at least one representative. That is, in the case of a Congressional election, twenty thousand in the whole State should be agreed in that opinion. The majority thus has all the influence which it is strictly entitled to have, but it cannot exercise the undisputed sway which has hitherto given it the character of a tyrant. Every measure which it proposed would be contested inch by inch, and though it would be ultimately carried, it would only be after it was shorn of all its most obnoxious features, in consequence of the thorough exposure which it had received.

"Thoughtful men have at all times endeavoured to secure a due share of influence to the minority. John C. Calhoun devoted himself to this subject, and has left a treatise upon it, to explain the mode in which such a scheme could be realized. But the plan which he proposed is wholly impracticable, and is now looked upon only as a monument of his patience and ingenuity. Every one feels the hardship of a minority, whose voice is not heard, and whose wishes go for nothing. We have submitted to the inconvenience because we have not heretofore seen any practical plan suggested for avoiding it. Our ready philosophy has taught us that it would be better to be poorly represented than not to be represented at all. Fully aware of the injustice of our condition we have endeavoured to make the best of it, hoping, with labour and time, to become, in our turn, the majority.

"The grand recommendation of this plan is, however, the tendency it would have to bring forward distinguished men as candidates. An individual of any note soon becomes known throughout the State, and he will be voted for in preference to the unheard-of nominee of some petty local convention. The same reason which induces the bringing forward of men of reputation also operates to keep them in the position which they have shown themselves qualified to occupy. At present the reverse is true. The moment a man becomes prominent by displaying his ability or integrity, he makes himself obnoxious to those who rather desire tools to carry out their sinister designs, than men of character who will obstruct them. Hence, an intrigue is set on foot to defeat such a man, and always with success. Those in the community who would sanction his conduct, in case an opportunity was given them to express their opinion, have no influence whatever. It is all settled in the primary meetings, where delegates to the convention are chosen, hostile to him. We all know how these matters are managed. Some greedy aspirant scours up his confederates to aid him to elect, in the ward meetings, his favourites to the convention. They are successful, because respectable citizens will not degrade themselves by frequenting such dens. When in convention, they nominate a candidate who professes the political principles of a party, and its members must either vote for him or throw their vote away. In such an alternative they give him their vote

rather than his opponent, who is probably no better, and professes the opposite principles.

"In the final appeal to the people a decided advantage would also be gained. Bribery, that subtle and most dangerous of all foes to free institutions, would be greatly weakened, if not wholly destroyed. At present, the main inducement for resorting to its aid, is the fictitious importance which a few votes acquire in a closely contested election. The change of a few votes determines whether a large part of a constituency is to be fairly represented, or not represented at all, or rather misrepresented. Take away this strong motive for bribery, by recognising a unanimous constituency, and this dangerous element in our government will be eliminated. It is an incredible supposition that an entire constituency could be bought up; but, granting that it were true, it could never be generally done. Hence the influence of a representative so elected would be counteracted by that of the honest men about him.

"There is no reason why a salutary change of this kind should not be introduced. It would work as potently to renovate our legislature and city councils, as it would to restore the lost character of Congress. The corrupting agencies are powerfully and systematically at work in all those places, and it is time that the people, who have the welfare of the country at heart, should set to work to counteract their deadly influence."—*Philadelphia Inquirer*, October 22, 1860.

The civil war has arrested all effectual efforts for electoral improvement, and well-nigh suspended discussions on the subject. Several pamphlets and articles, urging a consideration of the method, have, nevertheless, been published; among others, *True and False Democracy*, Boston, Crosby and Ireland, Congress-street, 1862. *North American Review*, 1863, Vol. xcv., p. 240. *Christian Examiner*, Boston, 1863, &c.

The *North American Review* thus states the case:—

"Now if the legislative assembly be in its primal intent and use a *parliament*, a talking body, every numerous and respectable party among the people has an undoubted right to its share in the *talk*; every significant phase of opinion has a right to be presented and advocated; or, to state the case still more strongly, *the nation has a right to such practical solution as can be elicited only by the free comparison and discussion of opposing and divergent theories and measures*; and the legislators who represent it have a majority have no right to close their ears and minds to the most ample and direct presentation of the views and arguments of the minority. But how is it possible to insure the representation of minorities? It can be effected by no system now in practice. An approximation is made to it by rendering each constituency so small that it shall elect but a single representative; for it is probable that a large minority in a state or nation will be a majority in a considerable number of these small constituencies (?). On the other

hand, constituencies large enough to choose several representatives on a general ticket, will be likely to have a majority coincident with that of the whole state, or of the section of the country to which they respectively belong. Thus most of the counties of Massachusetts would generally furnish majorities of the same complexion with that of the State; while the individual towns could many of them choose minority representatives. Thus, too, it almost always happens that, of two legislative chambers, the smaller and higher is much more nearly homogeneous in opinion than the larger and lower: and we have known at least one instance in which a senate of twelve consisted wholly of members of a single political party, while one third of the members of the lower house were in opposition. We deem this subject of so great importance in theory, and so sure to become, at no great distance of time, a matter of practical discussion, that we make no apology for quoting at length the solutions of the problem suggested by Mr. Mill."

[Here follows an extract from Mr. Mill's *Considerations on Representative Government*, pp. 151–155. 3rd edit. 158–162.]

"In framing this system, I have always looked forward to its reception by the American people with an anxious hope. It may be an ungrateful task to struggle against the effete traditions and implacable prejudices of Europe, but an appeal to the patriotism of a people who shrink from no sacrifice in pursuit of their ideal of national greatness, can hardly be in vain. It is for the American Republic that the eyes of the old world will turn for a spectacle of what self-government can accomplish. Its unexampled progress is the marvel of these modern times. The rich imagination of Burke, warmed with the theme, recalled to the view of his hearers the "little speck scarcely visible,—a seminal principle rather than a settled body," which had grown, within the life of one man, into populous and wealthy provinces. If that statesman could have been gifted with a forward prescience, even his eloquence might well have failed to picture in appropriate language the mighty federation of the century then to come. Surpassing all other people in the arts of Peace, as they minister to the universal comfort and well-being,—attaining a not less distinguished though unhappy eminence in the art of War,—a nobler work remains to them,—that rising like a strong man in his strength, they shake off the parasites that prey on the credulity and folly, and pander to the vices, of the public,—and become the leaders of mankind in the far greater art of Government. It is said to nations as to men, "Better is he that ruleth his spirit than he that taketh a city."

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